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

FORM 10-Q

(Mark One)
x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 1, 2007

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number 1-10658

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

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

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

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

Large Accelerated Filer **x** Accelerated Filer ☐ Non-Accelerated Filer ☐

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

The number of outstanding shares of the registrant's common stock as of April 5, was 756,358,462.

PART I. FINANCIAL INFORMATION

Item 1. ***Financial Statements***

MICRON TECHNOLOGY, INC.

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

	Quarter ended		Six months ended	
	March 1, 2007	**March 2, 2006**	**March 1, 2007**	**March 2, 2006**
Net sales	$ 1,427	$ 1,225	$ 2,957	$ 2,587
Cost of goods sold	1,070	989	2,158	2,040
Gross margin	357	236	799	547
Selling, general and administrative	153	108	333	203
Research and development	243	159	426	325
Other operating (income), net	(5)	(219)	(36)	(231)
Operating income (loss)	(34)	188	76	250
Interest income	35	20	76	31
Interest expense	(4)	(7)	(5)	(18)
Other non-operating income (expense), net	5	(1)	8	--
Income before taxes and noncontrolling interests	2	200	155	263
Income tax (provision)	(6)	(7)	(15)	(7)
Noncontrolling interests in net income	(48)	--	(77)	--
Net income (loss)	$ (52)	$ 193	$ 63	$ 256
Earnings (loss) per share:				
Basic	$ (0.07)	$ 0.29	$ 0.08	$ 0.39
Diluted	(0.07)	0.27	0.08	0.37
Number of shares used in per share calculations:				
Basic	768.7	661.5	767.9	655.8
Diluted	768.7	714.6	776.3	710.6

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

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

As of	March 1, 2007	August 31, 2006
Assets		
Cash and equivalents	$ 1,566	$ 1,431
Short-term investments	627	1,648
Receivables	943	956
Inventories	1,293	963
Prepaid expenses	74	77
Deferred income taxes	25	26
Total current assets	4,528	5,101
Intangible assets, net	416	388
Property, plant and equipment, net	7,593	5,888
Deferred income taxes	59	49
Goodwill	522	502
Other assets	258	293
Total assets	$ 13,376	$ 12,221
Liabilities and shareholders' equity		
Accounts payable and accrued expenses	$ 1,376	$ 1,319
Deferred income	70	53
Equipment purchase contracts	148	123
Current portion of long-term debt	183	166
Total current liabilities	1,777	1,661
Long-term debt	639	405
Deferred income taxes	26	28
Other liabilities	402	445
Total liabilities	2,844	2,539
Commitments and contingencies		
Noncontrolling interests in subsidiaries	2,283	1,568
Common stock, $0.10 par value, authorized 3 billion shares, issued and outstanding 755.8 million and 749.4 million shares	76	75
Additional capital	6,628	6,555
Retained earnings	1,548	1,486
Accumulated other comprehensive (loss)	(3)	(2)
Total shareholders' equity	8,249	8,114
Total liabilities and shareholders' equity	$ 13,376	$ 12,221

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

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

Six months ended	March 1, 2007	March 2, 2006
Cash flows from operating activities		
Net income	$ 63	$ 256
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	800	595
Stock-based compensation	20	10
Loss (gain) from write-down or disposition of equipment	(10)	9
Gain from sale of product and process technology	(30)	--
Change in operating assets and liabilities:		
Decrease in receivables	59	39
(Increase) decrease in inventories	(331)	86
Increase in accounts payable and accrued expenses	62	127
Deferred income taxes	(6)	(12)
Other	89	196
Net cash provided by operating activities	716	1,306
Cash flows from investing activities		
Expenditures for property, plant and equipment	(2,180)	(455)
Purchases of available-for-sale securities	(1,003)	(1,274)
Proceeds from maturities of available-for-sale securities	1,723	1,000
Proceeds from sales of available-for-sale securities	307	--
Proceeds from sale of product and process technology	30	--
Proceeds from sales of property, plant and equipment	24	17
Decrease in restricted cash	14	36
Other	(110)	(18)
Net cash used for investing activities	(1,195)	(694)
Cash flows from financing activities		
Capital contribution from noncontrolling interest in IMFT	647	500
Proceeds from equipment sale-leaseback transactions	309	--
Proceeds from issuance of common stock	50	47
Payments on equipment purchase contracts	(287)	(77)
Repayments of debt	(104)	(70)
Other	(1)	--
Net cash provided by financing activities	614	400
Net increase in cash and equivalents	135	1,012
Cash and equivalents at beginning of period	1,431	524
Cash and equivalents at end of period	$ 1,566	$ 1,536
Supplemental disclosures		
Income taxes paid, net	$ (25)	$ (4)
Interest paid, net of amounts capitalized	(4)	(24)
Noncash investing and financing activities:		
Conversion of notes to stock, net of unamortized issuance costs	--	623
Equipment acquisitions on contracts payable and capital leases	667	144

See accompanying notes to consolidated financial statements.

Significant Accounting Policies

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

The Company's fiscal year is the 52 or 53-week period ending on the Thursday closest to August 31. The Company's second quarter of fiscal 2007 and 2006 ended on March 1, 2007, and March 2, 2006, respectively. The Company's fiscal 2006 ended on August 31, 2006. All period references are to the Company's fiscal periods unless otherwise indicated. These interim financial statements should be read in conjunction with the consolidated financial statements and accompanying notes included in the Company's Annual Report on Form 10-K for the year ended August 31, 2006.

Recently issued accounting standards: In February 2007, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities - Including an amendment of FASB Statement No. 115." Under SFAS No. 159, the Company may elect to measure many financial instruments and certain other items at fair value on an instrument by instrument basis subject to certain restrictions. The Company may adopt SFAS No. 159 at the beginning of 2008. The impact of the adoption of SFAS No. 159 will be dependent on the extent to which the Company elects to measure eligible items at fair value.

In September 2006, the SEC staff issued Staff Accounting Bulletin ("SAB") No. 108, "Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements." The Company is required to adopt SAB No. 108 by the end of 2007 and does not expect the adoption to have a significant impact on the Company's financial position or results of operations.

In September 2006, the FASB issued SFAS No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans - an amendment of FASB Statements No. 87, 88, 106, and 132(R)." Under SFAS No. 158, the Company is required to initially recognize the funded status of a defined benefit postretirement plan and to provide the required disclosures as of the end of 2007. The Company does not expect the adoption of SFAS No. 158 to have a significant impact on its financial position or results of operations.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements." SFAS No. 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS No. 157 applies under other accounting pronouncements that require or permit fair value measurements. The Company is required to adopt SFAS No. 157 effective at the beginning of 2009.

In June 2006, the FASB issued Interpretation No. 48 ("FIN 48"), "Accounting for Uncertainty in Income Taxes - an interpretation of FASB Statement No. 109." FIN 48 contains a two-step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The Company is required to adopt FIN 48 effective at the beginning of 2008. The Company is evaluating the impact this statement will have on its consolidated financial statements.

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments." SFAS No. 155 permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation. As of March 1, 2007, the Company did not have any hybrid financial instruments subject to the fair value election under SFAS No. 155. The Company is required to adopt SFAS No. 155 effective at the beginning of 2008.

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections." SFAS No. 154 changes the requirements for the accounting for and reporting of a change in accounting principle. The Company adopted SFAS No. 154 at the beginning of 2007. The adoption of SFAS No. 154 did not impact the Company's results of operations and financial condition.

Supplemental Balance Sheet Information

Receivables	March 1, 2007	August 31, 2006
Trade receivables	$ 724	$ 811
Taxes other than income	30	18
Other	194	131
Allowance for doubtful accounts	(5)	(4)
	$ 943	$ 956

As of March 1, 2007, and August 31, 2006, other receivables include $80 million and $51 million, respectively, due from Intel Corporation primarily for amounts related to NAND Flash product design and process development activities, and $88 million and $51 million, respectively, due from settlement of litigation. Long-term receivables due from settlement of litigation of $145 million and $181 million as of March 1, 2007, and August 31, 2006, respectively, are included in other noncurrent assets in the Company's consolidated balance sheet.

Inventories	March 1, 2007	August 31, 2006
Finished goods	$ 451	$ 273
Work in process	657	530
Raw materials and supplies	237	195
Allowance for obsolescence	(52)	(35)
	$ 1,293	$ 963

Goodwill and Intangible Assets

	March 1, 2007		August 31, 2006	
	Gross Amount	Accumulated Amortization	Gross Amount	Accumulated Amortization
Intangible assets:				
Product and process technology	$ 522	$ (244)	$ 460	$ (219)
Customer relationships	127	(11)	127	(4)
Other	29	(7)	27	(3)
	$ 678	$ (262)	$ 614	$ (226)

During the first six months of 2007 and 2006, the Company capitalized $62 million and $18 million, respectively, for product and process technology with weighted-average useful lives of 9 years and 10 years, respectively. During the first six months of 2007, the Company capitalized $2 million of other intangible assets with a useful life of 4 years.

Amortization expense for intangible assets was $19 million and $36 million for the second quarter and first six months of 2007, respectively, and $13 million and $26 million for the second quarter and first six months of 2006, respectively. Annual amortization expense for intangible assets held as of March 1, 2007, is estimated to be $74 million for 2007, $75 million for 2008, $64 million for 2009, $54 million for 2010 and $49 million for 2011.

As of March 1, 2007, the Company had goodwill of $472 million for its Memory segment and $50 million for its Imaging segment. As of August 31, 2006, the Company had goodwill of $490 million for its Memory segment and $12 million for its Imaging segment. (See “Acquisitions” Note.)

Property, Plant and Equipment	**March 1, 2007**	**August 31, 2006**
Land	$ 107	$ 107
Buildings	3,425	2,763
Equipment	11,235	9,528
Construction in progress	329	484
Software	263	251
	15,359	13,133
Accumulated depreciation	(7,766)	(7,245)
	$ 7,593	$ 5,888

Depreciation expense was $407 million and $782 million for the second quarter and first six months of 2007, respectively, and $286 million and $578 million for the second quarter and first six months of 2006, respectively.

Accounts Payable and Accrued Expenses	**March 1, 2007**	**August 31, 2006**
Accounts payable	$ 835	$ 854
Salaries, wages and benefits	240	220
Taxes other than income	22	23
Income taxes	14	20
Other	265	202
	$ 1,376	$ 1,319

Debt	**March 1, 2007**	**August 31, 2006**
Capital lease obligations payable in monthly installments through August 2021, weighted-average imputed interest rate of 6.5% and 6.6%	$ 565	$ 264
Notes payable in periodic installments through July 2015, weighted-average interest rate of 1.4% and 1.5%	187	237
Convertible subordinated notes payable, interest rate of 5.6%, due April 2010	70	70
	822	571
Less current portion	(183)	(166)
	$ 639	$ 405

As of March 1, 2007, notes payable above included $186 million, denominated in Japanese yen, at a weighted-average interest rate of 1.4%.

In the second quarter of 2007, the Company received $309 million in proceeds from sales-leaseback transactions and in connection with these transactions recorded capital lease obligations aggregating $300 million with a weighed-average imputed interest rate of 6.6%, payable in periodic installments through June 2011.

The Company's TECH subsidiary has a credit facility that enables it to borrow up to $400 million at Singapore Interbank Offered Rate ("SIBOR") plus 2.5% subject to customary covenants. Amounts borrowed under the facility would be due in quarterly installments through September 2009. As of March 1, 2007, TECH had not borrowed any amounts against the credit facility.

The Company's $70 million 5.625% convertible notes ("Notes") assumed in the acquisition of Lexar Media, Inc. are convertible into the Company's common stock any time at the option of the holders of the Notes at a price equal to approximately $11.28 per share and are subject to customary covenants. The Notes are redeemable for cash at the Company's option beginning on April 1, 2008, at a price equal to the principal amount plus accrued interest. The Company may only redeem the Notes if its common stock has exceeded 175% of the conversion price for at least 20 trading days in the 30 consecutive trading days prior to delivery of a notice of redemption. Upon redemption, the Company will be required to make a payment equal to the net present value of the remaining scheduled interest payments through April 1, 2010.

Contingencies

As is typical in the semiconductor and other high technology industries, from time to time, others have asserted, and may in the future assert, that the Company's products or manufacturing processes infringe their intellectual property rights. In this regard, the Company is engaged in litigation with Rambus, Inc. ("Rambus") relating to certain of Rambus' patents and certain of the Company's claims and defenses. Lawsuits between Rambus and the Company are pending in the U.S. District Court for the District of Delaware, U.S. District Court for the Northern District of California, Germany, France, and Italy. The Company also is engaged in patent litigation with Tadahiro Ohmi ("Ohmi") in the U.S. District Court for the Eastern District of Texas, with Massachusetts Institute of Technology ("MIT") in the U.S. District Court for the District of Massachusetts and with Mosaid Technologies, Inc. ("Mosaid") in both the U.S. District Court for the Northern District of California and the U.S. District Court for the Eastern District of Texas. Among other things, the above lawsuits pertain to certain of the Company's SDRAM, DDR SDRAM, DDR2 SDRAM, RLDRAM, and image sensor products, which account for a significant portion of net sales.

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

On June 17, 2002, the Company received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the Antitrust Division of the Department of Justice (the "DOJ") into possible antitrust violations in the "Dynamic Random Access Memory" or "DRAM" industry. The Company is cooperating fully and actively with the DOJ in its investigation. The Company's cooperation is pursuant to the terms of the DOJ's Corporate Leniency Policy, which provides that in exchange for the Company's full, continuing and complete cooperation in the pending investigation, the Company will not be subject to prosecution, fines or other penalties from the DOJ. Subsequent to the commencement of the DOJ investigation, at least eighty-four (seven of which have been dismissed) purported class action lawsuits have been filed against the Company and other DRAM suppliers in various federal and state courts in the United States and in Puerto Rico by direct and indirect purchasers alleging price-fixing in violation of federal and state antitrust laws, violations of state unfair competition law, and/or unjust enrichment relating to the sale and pricing of DRAM products. The complaints seek treble damages sustained by purported class members, in addition to restitution, costs and attorneys' fees, as well as an injunction against the allegedly unlawful conduct. The direct purchaser cases were consolidated in the U.S. District Court for the Northern District of California and the Court granted plaintiffs' motion to certify the proposed class of direct purchasers. On January 9, 2007, the Company entered into a settlement agreement with the class of direct purchasers ("Direct Purchaser Settlement"). Under terms of the Direct Purchaser Settlement, the Company agreed to pay $91 million and will be dismissed with prejudice from the direct purchaser consolidated class-action suit. The Direct Purchaser Settlement is subject to approval by the U.S. District Court for the Northern District of California. The Direct Purchaser Settlement does not resolve the indirect purchaser suits. As a result of the Direct Purchaser Settlement, the Company recorded a $50 million charge to revenue and $31 million net charge to selling, general and administrative expenses for the first quarter of 2007. The Company recorded the costs of the Direct Purchaser Settlement attributable to current customers as a charge to revenue in accordance with generally accepted accounting principles.

Three purported class action lawsuits also have been filed in Canada, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States and Puerto Rico. The Direct Purchaser Settlement does not resolve these suits.

In addition, various states, through their Attorneys General, have filed suit against the Company and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following states filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and the Commonwealth of the Northern Mariana Islands. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. The Direct Purchaser Settlement does not resolve these suits.

In February and March 2007, three cases were filed against the Company and other manufacturers of DRAM in the U.S. District Court for the Northern District of California by parties that opted-out of the direct purchaser class action. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies. The Direct Purchaser Settlement does not resolve these suits.

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

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

In the first calendar quarter of 2007, at least fifteen purported class action lawsuits were filed against the Company and other suppliers of flash memory products. Thirteen of these were filed in the U.S. District Court for the Northern District of California. These cases assert claims on behalf of a purported class of individuals and entities that purchased Flash memory directly or indirectly from various Flash memory suppliers during the period from January 1, 1999 through the date the various cases were filed. The complaints generally allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek monetary damages, restitution, costs, interest, and attorneys' fees.

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

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

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

In addition, on March 23, 2006, a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for the benefit of the Company, against certain of the Company's current and former officers and directors. The Company also was named as a nominal defendant. An amended complaint was filed on August 23, 2006. The complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The complaint is derivative in nature and does not seek monetary damages from the Company. However, the Company may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants.

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

In March 2006, following the Company's announcement of a definitive agreement to acquire Lexar Media, Inc. ("Lexar") in a stock-for-stock merger, four purported class action complaints were filed in the Superior Court for the State of California (Alameda County) on behalf of shareholders of Lexar against Lexar and its directors. Two of the complaints also name the Company as a defendant. The complaints allege that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Lexar shareholders by, among other things, engaging in self-dealing, failing to engage in efforts to obtain the highest price reasonably available, and failing to properly value Lexar in connection with a merger transaction between Lexar and the Company. The plaintiffs seek, among other things, injunctive relief preventing, or an order of rescission reversing, the merger, compensatory damages, interest, attorneys' fees, and costs. On May 19, 2006, the plaintiffs filed a motion for preliminary injunction seeking to block the merger. On May 31, 2006, the Court denied the motion. An amended consolidated complaint was filed on October 10, 2006. The Company is unable to predict the outcome of these suits. A court determination against the Company could result in significant liability and could have a material adverse effect on the Company's business, results of operations or financial condition. (See "Acquisitions - Lexar Media, Inc." note.)

The Company has accrued a liability and charged operations for the estimated costs of adjudication or settlement of various asserted and unasserted claims existing as of the balance sheet date. The Company is currently a party to other legal actions arising out of the normal course of business, none of which is expected to have a material adverse effect on the Company's business, results of operations or financial condition.

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

Equity Plans

As of March 1, 2007, the Company had an aggregate of 186.0 million shares of its common stock reserved for issuance under its various equity plans, of which 131.6 million shares were subject to outstanding stock awards and 54.4 million shares were available for future grants. Awards are subject to terms and conditions as determined by the Company's Board of Directors.

Stock Options: The Company granted 6.8 million and 7.8 million shares of stock options during the second quarter and first six months of 2007, respectively. The weighted-average grant-date fair value per share was $4.75 and $4.91 for options granted during the second quarter and first six months of 2007, respectively. The Company granted 9.8 million and 10.3 million shares of stock options during the second quarter and first six months of 2006, respectively. The weighted-average grant-date fair value per share was $5.90 and $5.89 for options granted during the second quarter and first six months of 2006, respectively.

The fair value of each option award is estimated as of the date of grant using the Black-Scholes model. Expected volatilities are based on implied volatilities from traded options on the Company's stock and historical volatility. The expected life of options granted is based on historical experience and on the terms and conditions of the options. The risk-free rates are based on the U.S. Treasury yield in effect at the time of the grant. Assumptions used in the Black-Scholes model are presented below:

	Quarter ended		Six months ended	
	March 1, 2007	**March 2, 2006**	**March 1, 2007**	**March 2, 2006**
Average expected life in years	4.25	4.25	4.25	4.25
Expected volatility	38%-40%	47%	38%-42%	47%-48%
Weighted-average volatility	38%	47%	39%	47%
Risk-free interest rate	4.6%	4.4%	4.7%	4.4%

The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable and requires the input of subjective assumptions, including the expected stock price volatility and estimated option life. For purposes of this valuation model, no dividends have been assumed.

Restricted Stock and Restricted Stock Units: The Company awards restricted stock and restricted stock units (collectively, "Restricted Awards") under its equity plans. During the second quarter of 2007 and 2006, the Company granted 1.7 million and 0.7 million shares, respectively, of service-based Restricted Awards. During the first six months of 2007, the Company granted 2.7 million shares of service-based Restricted Awards and 0.9 million shares of performance-based Restricted Awards. During the first six months of 2006, the Company granted 1.5 million shares of service-based Restricted Awards and 0.6 million shares of performance-based Restricted Awards. The weighted-average grant-date fair value per share was $12.38 and $15.13 for Restricted Awards granted during the second quarter and first six months of 2007, respectively. The weighted-average grant-date fair value per share was $14.26 and $12.91 for Restricted Awards granted during the second quarter and first six months of 2006, respectively.

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

	Quarter ended		Six months ended	
	March 1, 2007	**March 2, 2006**	**March 1, 2007**	**March 2, 2006**
Stock-based compensation expense by caption:				
Cost of goods sold	$ 3	$ 2	$ 5	$ 3
Selling, general and administrative	5	2	10	4
Research and development	2	2	5	3
	$ 10	$ 6	$ 20	$ 10
Stock-based compensation expense by type of award:				
Stock options	$ 5	$ 4	$ 11	$ 6
Restricted stock	5	2	9	4
	$ 10	$ 6	$ 20	$ 10

Stock-based compensation expense of $2 million was capitalized and remained in inventory at March 1, 2007. As of March 1, 2007, $139 million of total unrecognized compensation costs related to non-vested awards was expected to be recognized through the second quarter of 2011, resulting in a weighted-average period of 1.6 years. Stock-based compensation expense in the above presentation does not reflect any significant income taxes, which is consistent with the Company's treatment of income or loss from its U.S. operations. (See "Income Taxes" note.)

Other Operating (Income) Expense, Net

Other operating income for the first six months of 2007 includes gains on disposals of semiconductor equipment of $10 million. Other operating income for the first quarter of 2007 includes a gain of $30 million from the sale of certain intellectual property to Toshiba Corporation. Other operating income for the second quarter of 2006 includes $230 million of net proceeds from Intel for the sale of the Company's then existing NAND Flash memory designs and certain related technology and the Company's acquisition of a perpetual, paid-up license to use and modify such designs. Other operating expense for the second quarter and first six month of 2006 include $9 million from losses net of gains on write-downs and disposals of semiconductor equipment. Other operating income for the first six months of 2006 includes net gains of $8 million from changes in currency exchange rates.

Income Taxes

Income taxes for 2007 and 2006 primarily reflect taxes on the Company's non-U.S. operations and U.S. alternative minimum tax. The Company has a valuation allowance for its net deferred tax asset associated with its U.S. operations. The provision for taxes on U.S. operations in 2007 and 2006 was substantially offset by a reduction in the valuation allowance. As of March 1, 2007, the Company had aggregate U.S. tax net operating loss carryforwards of $1.5 billion and unused U.S. tax credit carryforwards of $191 million. The Company also had unused state tax net operating loss carryforwards of $1.4 billion and unused state tax credits of $169 million. Substantially all of the net operating loss carryforwards expire in 2022 to 2025 and substantially all of the tax credit carryforwards expire in 2013 to 2026.

Earnings Per Share

Basic earnings per share is computed based on the weighted-average number of common shares and stock rights outstanding. Diluted earnings per share is computed based on the weighted-average number of common shares outstanding plus the dilutive effects of stock options, warrants and convertible notes. Potential common shares that would increase earnings per share amounts or decrease loss per share amounts are antidilutive and are, therefore, excluded from earnings per share calculations. Antidilutive potential common shares that could dilute basic earnings per share in the future were 165.7 million and 111.3 million for the second quarter and first six months of 2007, respectively, and 97.0 million and 110.7 million for the second quarter and first six months of 2006, respectively.

	Quarter ended		Six months ended	
	March 1, 2007	March 2, 2006	March 1, 2007	March 2, 2006
Net income (loss) available to common shareholders - Basic	$ (52)	$ 193	$ 63	$ 256
Net effect of assumed conversion of debt	--	3	--	6
Net income (loss) available to common shareholders - Diluted	$ (52)	$ 196	$ 63	$ 262
Weighted-average common shares outstanding − Basic	768.7	661.5	767.9	655.8
Net effect of dilutive stock options and assumed conversion of debt	--	53.1	8.4	54.8
Weighted-average common shares outstanding − Diluted	768.7	714.6	776.3	710.6
Earnings (loss) per share:				
Basic	$ (0.07)	$ 0.29	$ 0.08	$ 0.39
Diluted	(0.07)	0.27	0.08	0.37

Comprehensive Income (Loss)

Comprehensive income (loss) for 2007 and 2006 includes net income (loss) and de minimis amounts of unrealized gains and losses on investments. Comprehensive loss for the second quarter of 2007 was $55 million and comprehensive income for the first six months of 2007 was $62 million. Comprehensive income for the second quarter and first six months of 2006 was $193 million and $256 million, respectively.

Acquisitions

Lexar Media, Inc. ("Lexar"): On June 21, 2006, the Company acquired Lexar, a designer, developer, manufacturer and marketer of flash memory products, in a stock for stock merger to broaden the Company's NAND Flash product offering, enhance its retail presence and strengthen its portfolio of intellectual property. In connection therewith, the Company issued 50.7 million shares of common stock, issued 6.6 million stock options and incurred other acquisition costs resulting in an aggregate purchase price of $886 million, which was allocated to the assets and liabilities of Lexar based on preliminary estimates of fair values. The Company recorded total assets of $1,348 million, including cash and short-term investments of $101 million, receivables of $311 million, intangible assets of $183 million and goodwill of $467 million; and total liabilities of $462 million. The recorded amounts include adjustments in 2007 to the initial allocation of purchase price to reflect additional information about the fair value of assets and liabilities acquired. The adjustments in 2007 include an $11 million increase in receivables and other assets, an $8 million decrease in liabilities and a $19 million decrease in goodwill. The Company's results of operations subsequent to the acquisition date include Lexar, as part of the Company's Memory segment.

The following unaudited pro forma information presents the consolidated results of operations of the Company as if the acquisition of Lexar had taken place at the beginning of 2006. The pro forma information does not necessarily reflect the actual results that would have occurred nor is it necessarily indicative of future results of operations.

	Quarter ended March 2, 2006	Six months ended March 2, 2006
Net sales	$ 1,347	$ 2,946
Net income	151	185
Earnings per share - diluted	$ 0.20	$ 0.25

Avago Technologies Limited Image Sensor Business: On December 11, 2006, the Company acquired the CMOS image sensor business of Avago Technologies Limited ("Avago") for approximately $53 million in cash, plus additional contingent payments of up to $17 million if certain milestones are met. The purchase price was allocated to the acquired net assets based on preliminary estimates of fair values. As of March 1, 2007, the Company recorded total assets of $56 million, including intangible assets of $17 million and goodwill of $38 million; and total liabilities of $1 million. The Company's results of operations subsequent to the acquisition date include the CMOS image sensor business acquired from Avago, as part of the Company's Imaging segment. Mercedes Johnson, a member of the Company's Board of Directors, is the Senior Vice President, Finance and Chief Financial Officer, of Avago. Ms. Johnson recused herself from all deliberations of the Company's Board of Directors concerning this transaction.

Joint Ventures

NAND Flash Joint Ventures with Intel Corporation ("IM Flash"): The Company has formed two joint ventures with Intel to manufacture NAND Flash memory products for the exclusive benefit of the partners: IM Flash Technologies, LLC and IM Flash Singapore LLP. As of March 1, 2007, the Company owned 51% and Intel owned 49% of IM Flash. The parties share output of IM Flash generally in proportion to their ownership in IM Flash.

The Company has determined that both of the IM Flash joint ventures are variable interest entities as defined in FIN 46(R), "Consolidation of Variable Interest Entities," and that the Company is the primary beneficiary of both. Accordingly, IM Flash financial results are included in the accompanying consolidated financial statements of the Company. The creditors of IM Flash have recourse only to the assets of IM Flash and do not have recourse to any other assets of the Company.

TECH Semiconductor Singapore Pte. Ltd. ("TECH"): Since 1998, the Company has participated in TECH, a semiconductor memory manufacturing joint venture in Singapore among the Company, the Singapore Economic Development Board ("EDB"), Canon Inc. and Hewlett-Packard Company. As of March 1, 2007, the Company owned an approximate 43% interest in TECH. The shareholders' agreement for the TECH joint venture expires in 2011.

On March 30, 2007, the Company exercised its option and acquired all of the shares of TECH common stock held by EDB for approximately $290 million payable over nine months. As a result of the acquisition, the Company's ownership interest in TECH increased from 43% to 73%. The accompanying consolidated financial statements do not reflect the impact of acquiring these shares as the transaction closed subsequent to the end of the second quarter.

The Company has determined that TECH is a variable interest entity, and has concluded it is the primary beneficiary of TECH as defined by FIN 46(R) and therefore began consolidating TECH's financial results as of the beginning of the Company's third quarter of 2006. The creditors of TECH have recourse only to the assets of TECH and do not have recourse to any other assets of the Company.

TECH's semiconductor manufacturing uses the Company's product and process technology. Subject to specific terms and conditions, the Company has agreed to purchase all of the products manufactured by TECH. The Company generally purchases semiconductor memory products from TECH at prices determined quarterly, based on a discount from average selling prices realized by the Company for the preceding quarter. The Company performs assembly and test services on product manufactured by TECH. The Company also provides certain technology, engineering and training to support TECH. Through the second quarter of 2006, prior to the consolidation of TECH, all of these transactions with TECH were recognized as part of the net cost of products purchased from TECH. The net cost of products purchased from TECH amounted to $147 million and $287 million for the second quarter and first six months of 2006, respectively.

Segment Information

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

	Quarter ended		Six months ended	
	March 1, 2007	March 2, 2006	March 1, 2007	March 2, 2006
Net sales:				
Memory	$ 1,271	$ 1,066	$ 2,557	$ 2,274
Imaging	156	159	400	313
Total consolidated net sales	$ 1,427	$ 1,225	$ 2,957	$ 2,587
Operating income:				
Memory	$ (24)	$ 161	$ 36	$ 182
Imaging	(10)	27	40	68
Total consolidated operating income (loss)	$ (34)	$ 188	$ 76	$ 250

Item 2. ***Management's Discussion and Analysis of Financial Condition and Results of Operations***

The following discussion contains trend information and other forward-looking statements that involve a number of risks and uncertainties. Forward-looking statements include, but are not limited to, statements such as those made in "Overview" regarding NAND Flash production in future periods and expected contributions to IM Flash; in "Net Sales" regarding NAND Flash production in future periods and expected revenue from sales of NAND Flash; in "Selling, General and Administrative" regarding SG&A expenses for the third quarter of 2007; in "Research and Development" regarding R&D costs in future periods; in "Stock-Based Compensation" regarding increases in future stock-based compensation costs; and in "Liquidity and Capital Resources" regarding capital spending in 2007 and 2008 and future capital contributions to IM Flash. The Company's actual results could differ materially from the Company's historical results and those discussed in the forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to, those identified in "PART II. OTHER INFORMATION - Item 1A. Risk Factors." This discussion should be read in conjunction with the Consolidated Financial Statements and accompanying notes and with the Company's Annual Report on Form 10-K for the year ended August 31, 2006. All period references are to the Company's fiscal periods unless otherwise indicated. All tabular dollar amounts are in millions. All production data reflects production of the Company and its consolidated joint ventures.

Overview

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

The Company has strategically diversified its business by expanding into semiconductor products such as specialty memory products (including SDRAM, PSRAM, mobile SDRAM and reduced latency DRAM), NAND Flash memory products and CMOS image sensors. These products are used in a wider range of applications than the computing applications that use the Company's highest volume products, DDR and DDR2 DRAM. The Company leverages its expertise in semiconductor memory manufacturing and product and process technology to provide products that are differentiated from competitors' products based on performance characteristics. In 2006 and the first six months of 2007, approximately half of the Company's revenue came from sales of specialty memory products, NAND Flash memory products and CMOS image sensors. The Company believes the strategic diversification of its product portfolio will strengthen its ability to allocate manufacturing resources to achieve the highest rate of return.

The Company has partnered with Intel to form two NAND Flash manufacturing joint ventures: IM Flash Technologies, LLC and IM Flash Singapore LLP (collectively "IM Flash"). IM Flash operations include two 300mm wafer fabrication facilities that are expected to greatly increase the Company's production of NAND Flash in 2007. IM Flash Singapore LLP plans to begin construction of a new 300mm wafer fabrication facility in Singapore in 2007. The Company expects to contribute approximately $2 billion in cash to IM Flash over the next three years, with similar contributions to be made by Intel. As of March 1, 2007, the Company owned 51% and Intel owned 49% of IM Flash. The parties share output of IM Flash generally in proportion to their ownership in IM Flash.

The Company makes significant ongoing investments to implement its proprietary product and process technology in its facilities in the United States, Europe and Asia to manufacture semiconductor products with increasing functionality and performance at lower costs. The Company continues to introduce new generations of products that offer improved performance characteristics, such as higher data transfer rates, reduced package size, lower power consumption and increased megapixel count. The Company generally reduces the manufacturing cost of each generation of product through advancements in product and process technology such as its leading-edge line width process technology and innovative array architecture.

In order to maximize returns from investments in research and development ("R&D"), the Company develops process technology that effectively reduces production costs and leverages the Company's capital expenditures. To leverage its R&D investments, the Company has formed strategic joint ventures under which the costs of developing NAND Flash memory product and process technologies are shared with its joint venture partner. In addition, from time to time, the Company has also sold and/or licensed technology to third parties. To be successfully incorporated in customers' end products, the Company must offer qualified semiconductor solutions at a time when customers are developing their design specifications for their end products. This is especially true for specialty memory products and CMOS image sensors, which are required to demonstrate advanced functionality and performance well ahead of a planned ramp of production to commercial volumes. In addition, DRAM and NAND Flash products necessarily incorporate highly advanced design and process technologies. The Company must make significant investments in R&D to expand its product offering and develop its leading-edge product and process technologies.

Results of Operations

	Second Quarter				First Quarter		Six Months			
	2007	% of net sales	2006	% of net sales	2007	% of net sales	2007	% of net sales	2006	% of net sales
	(amounts in millions and as a percent of net sales)									
Net sales:										
Memory	$ 1,271	89 %	$ 1,066	87 %	$ 1,286	84 %	$ 2,557	86 %	$ 2,274	88 %
Imaging	156	11 %	159	13 %	244	16 %	400	14 %	313	12 %
	$ 1,427	100 %	$ 1,225	100 %	$ 1,530	100 %	$ 2,957	100 %	$ 2,587	100 %
Gross margin:										
Memory	$ 302	24 %	$ 166	16 %	$ 340	26 %	$ 642	25 %	$ 404	18 %
Imaging	55	35 %	70	44 %	102	42 %	157	39 %	143	46 %
	$ 357	25 %	$ 236	19 %	$ 442	29 %	$ 799	27 %	$ 547	21 %
SG&A	$ 153	11 %	$ 108	9 %	$ 180	12 %	$ 333	11 %	$ 203	8 %
R&D	243	17 %	159	13 %	183	12 %	426	14 %	325	13 %
Other operating (income) expense, net	(5)	(0) %	(219)	(18) %	(31)	(2) %	(36)	(1) %	(231)	(9) %
Net income (loss)	(52)	(4) %	193	16 %	115	8 %	63	2 %	256	10 %

Net Sales

Total net sales for the second quarter of 2007 decreased 7% as compared to the first quarter of 2007 primarily reflecting a 36% decrease in Imaging sales due to weakness in the mobile handset market, increased competition and shifts in market mix towards lower value VGA-based camera phones. Memory sales for the second quarter of 2007 were relatively unchanged from the first quarter of 2007, as increases in megabit sales volumes for DRAM and NAND Flash memory products were offset by declines in per megabit average selling prices. Total net sales for the second quarter of 2007 increased 16% as compared to the second quarter of 2006 primarily due to a 19% increase in Memory sales. Total net sales for the first six months of 2007 increased 14% as compared to the first six months of 2006 due to a 12% increase in Memory sales and a 28% increase in Imaging sales.

Memory: Memory sales for the second quarter of 2007 were relatively unchanged from the first quarter of 2007 as an increase in NAND sales offset a slight decrease in DRAM sales.

Sales of NAND Flash memory products in the second quarter of 2007 increased 8% compared to the first quarter of 2007 primarily due to a 62% increase in megabits manufactured, partially offset by a 31% decline in average selling prices. Megabit production of NAND Flash products increased for the second quarter of 2007 as compared to the first quarter of 2007 primarily due to the ramp of the Company's wafer fabrication facility in Virginia. Sales of NAND Flash products include sales from IM Flash to Intel at long-term negotiated prices approximating cost. Sales of NAND Flash products represented 19% of the Company's total net sales for the second quarter of 2007 as compared to 16% for the first quarter of 2007 and 5% for the second quarter of 2006. The Company expects that sales of NAND Flash products will continue to increase in future periods as it ramps additional NAND Flash production capacity in Utah.

Sales of DRAM products for the second quarter of 2007 were relatively unchanged from the first quarter of 2007 as a 14% increase in megabits sold was offset by 13% decrease in average selling prices (which includes the effects of a $50 million charge to revenue in the first quarter of 2007 as a result of a settlement agreement with a class of direct purchasers of certain DRAM products (the "Direct Purchaser Settlement")). Megabit production of DRAM products increased 14% for the second quarter of 2007 as compared to the first quarter of 2007, primarily due to improvements in product and process technologies. Sales of DDR and DDR2 DRAM products were 50% of the Company's total net sales in the second quarter of 2007 as compared to 44% for first quarter of 2007 and 53% for the second quarter of 2006.

Memory sales for the second quarter of 2007 increased 19% as compared to the second quarter of 2006 primarily due to a 343% increase in sales of NAND Flash products. Memory sales for the first six months of 2007 increased 12% as compared to the first six months of 2006 primarily due to a 277% increase in sales of NAND Flash products. The increases in sales of NAND Flash products for the second quarter and first six months of 2007 as compared to the corresponding periods of 2006 was primarily due to the Company's acquisition of Lexar Media, Inc. (which occurred in the fourth quarter of 2006) and a significant increases in megabits manufactured, partially offset by decreases in average selling prices per megabit of approximately 55%. Megabit production of NAND Flash increased significantly for the second quarter and first six months of 2007 as compared to the corresponding periods of 2006, primarily due to the continued ramp of the wafer fabrication facility in Virginia. Sales of DRAM products for the second quarter of 2007 were relatively unchanged as compared to the second quarter of 2006 as an 11% increase in average selling prices per megabit was offset by a decrease in megabit sales volume. Sales of DRAM products for the first six months of 2007 decreased 6% as compared to the first six months of 2006 primarily due to reductions in megabit sales volume. Megabit sales volume of DRAM products for the second quarter and first six months of 2007 decreased from the corresponding periods of 2006 as the Company allocated a larger portion of its manufacturing resources to Imaging and NAND Flash products.

Imaging: Imaging sales for the second quarter of 2007 decreased by 36% from the first quarter of 2007 primarily due to lower sales volume and decreases in selling prices as a result of weakness in the mobile handset market, increased competition and shifts in market mix towards lower value VGA-based camera phones. Imaging sales for the second quarter of 2007 decreased by 2% as compared to the second quarter of 2006 primarily due to lower average selling prices. Imaging sales for the first six months of 2007 increased by 28% as compared to the first six months of 2006 primarily due to increases in unit sales, partially offset by lower average selling prices. Imaging sales were 11% of the Company's total net sales in the second quarter of 2007 as compared to 16% for the first quarter of 2007 and 13% for the second quarter of 2006.

Gross Margin

The Company's overall gross margin for the second quarter of 2007 declined as compared to the first quarter of 2007 primarily due to decreases in the gross margins for Memory and Imaging. The Company's overall gross margin for the second quarter and first six months of 2007 improved as compared to the corresponding periods of 2006 primarily due to increases in the gross margin for Memory partially offset by declines in the gross margin of Imaging.

Memory: The Company's gross margin for Memory for the second quarter of 2007 decreased slightly to 24% from 26% for the first quarter of 2007 primarily due to declining margins for NAND Flash products. The gross margin for NAND Flash products declined primarily as a result of the 31% decrease in average selling prices which was mitigated by a 23% reduction in per megabit costs. The Company achieved cost reductions for NAND Flash products through improved product yields and an increase in production utilizing the Company's 72nm line-width process. The gross margin for DRAM products in the second quarter of 2007 was relatively stable from the first quarter of 2007 as a 13% decrease in average selling prices was mitigated by a 13% reduction in costs. The Company achieved cost reductions for DRAM products through improved product yields and an increase in production utilizing the Company's 95nm and 78nm process technologies.

The Company's gross margin for Memory for the second quarter of 2007 improved to 24% as compared to 16% for the second quarter of 2006 primarily due to improvements in margins on DRAM products partially offset by declines in margins on NAND Flash products. The Company's gross margin for Memory for the first six months of 2007 improved to 25% as compared to 18% for the first six months of 2006 primarily due to improvements in margins on DRAM products partially offset by declines in margins on NAND Flash products. The gross margin for DRAM products in the second quarter and first six months of 2007 improved from the corresponding periods of 2006, primarily due to reductions in production costs and increases in average selling prices per megabit of approximately 10%. The Company's gross margin on NAND Flash products for the second quarter and first six months of 2007 declined from the corresponding periods of 2006 primarily due to decreases in average selling prices of approximately 55%, which were mitigated by significant reductions in costs.

The Company's TECH Semiconductor Singapore Pte. Ltd. ("TECH") joint venture supplied approximately 20% of the total megabits of memory produced by the Company in recent periods. TECH primarily produced DDR and DDR2 products in 2007 and 2006. As of the beginning of the third quarter of 2006, TECH's results are included in the Company's consolidated results. Through the second quarter of 2006, the Company's results reflected memory products purchased from TECH at prices generally based on a discount from average selling prices realized by the Company for the preceding quarter. In the first six months of 2006, the Company realized higher gross margin percentages on sales of TECH products than on sales of similar products manufactured by the Company's wholly-owned operations. Subsequent to the second quarter of 2006, the Company's purchases from TECH are eliminated in consolidation and, as a result, TECH's actual manufacturing costs are included in the Company's consolidated results of operations. Since TECH utilizes the Company's product designs and process technology and has a similar manufacturing cost structure, the gross margin on sales of TECH products since the third quarter of 2006 approximated those on sales of similar products manufactured by the Company's wholly-owned operations. (See "Item 1. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements - Joint Ventures - TECH Semiconductor Singapore Pte. Ltd.")

Imaging: The Company's gross margin for Imaging declined to 35% for the second quarter of 2007 from 42% for the first quarter of 2007 primarily due to declines in average selling prices which was mitigated by cost reductions. The Company's gross margin for Imaging declined to 35% for the second quarter of 2007 from 44% for the second quarter of 2006 primarily due to reductions in average selling prices that were mitigated by cost reductions and shifts in product mix to higher resolution products. The Company's gross margin for Imaging declined to 39% for the first six months of 2007 from 46% for the first six months of 2006 primarily due to reductions in average selling prices that were mitigated by cost reductions and shifts in product mix to higher resolution products.

Selling, General and Administrative

Selling, general and administrative ("SG&A") expenses for the second quarter of 2007 decreased 15% from the first quarter of 2007 primarily due to a $31 million net charge to SG&A in the first quarter of 2007 as a result of the Direct Purchaser Settlement. SG&A expenses for the second quarter of 2007 increased 42% from the second quarter of 2006 primarily due to higher personnel costs. Personnel costs in the second quarter of 2007 increased from the second quarter of 2006 primarily due to increased headcount resulting in part from the acquisition of Lexar, the formation of IM Flash in the second quarter of 2006 and the consolidation of TECH in the third quarter of 2006, as well as higher levels of stock-based compensation. SG&A expenses for the first six months of 2007 increased 64% from the first six months of 2006 primarily due to higher personnel costs and the Direct Purchaser Settlement. The Company expects SG&A expenses to approximate $140 million to $150 million for the third quarter of 2007. For the Company's Memory segment, SG&A expenses as a percentage of Memory sales were 10% in the second quarter of 2007, 12% in the first quarter of 2007 and 8% in the second quarter of 2006. For the Imaging segment, SG&A expenses as a percentage of Imaging sales were 15% in the second quarter of 2007, 11% in the first quarter of 2007 and 13% in the second quarter of 2006.

Research and Development

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

R&D expenses for the second quarter of 2007 increased 33% from the first quarter of 2007, principally due to costs associated with NAND preproduction wafer processing mitigated by increased reimbursements from Intel under a NAND Flash R&D cost sharing agreement. The Company and Intel share R&D process and design costs for NAND Flash. Under this NAND Flash R&D cost-sharing arrangement, the Company charged Intel $82 million in the second quarter of 2007, $48 million in the first quarter of 2007 and $20 million in the second quarter of 2006. R&D expenses for the second quarter and first six months of 2007 increased 53% and 31%, respectively, from the corresponding periods of 2006 principally due to NAND preproduction wafer processing mitigated by reimbursements received from Intel under the NAND Flash R&D cost-sharing arrangement. The Company expects that its net R&D costs will approximate $200 million to $220 million for the third quarter of 2007. For the Memory segment, R&D expenses as a percentage of Memory sales were 16% in the second quarter of 2007, 12% in the first quarter of 2007 and 13% in the second quarter of 2006. For the Imaging segment, R&D expenses as a percentage of Imaging sales were 27% in the second quarter of 2007, 13% in the first quarter of 2007 and second quarter of 2006.

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

Other Operating (Income) Expense, Net

Other operating income for the first six months of 2007 includes gains on disposals of semiconductor equipment of $10 million. Other operating income for the first quarter of 2007 includes a gain of $30 million from the sale of certain intellectual property to Toshiba Corporation. Other operating income for the second quarter of 2006 includes $230 million of net proceeds from Intel for the sale of the Company's then existing NAND Flash memory designs and certain related technology and the Company's acquisition of a perpetual, paid-up license to use and modify such designs. Other operating expense for the second quarter and first six month of 2006 include $9 million from losses net of gains on write-downs and disposals of semiconductor equipment. Other operating income for the first six months of 2006 includes net gains of $8 million from changes in currency exchange rates.

Income Taxes

Income taxes for 2007 and 2006 primarily reflect taxes on the Company's non-U.S. operations and U.S. alternative minimum tax. The Company has a valuation allowance for its net deferred tax asset associated with its U.S. operations. The provision for taxes on U.S. operations in 2007 and 2006 was substantially offset by a reduction in the valuation allowance. As of March 1, 2007, the Company had aggregate U.S. tax net operating loss carryforwards of $1.5 billion and unused U.S. tax credit carryforwards of $191 million. The Company also had unused state tax net operating loss carryforwards of $1.4 billion and unused state tax credits of $169 million. Substantially all of the net operating loss carryforwards expire from 2022 to 2025 and substantially all of the tax credit carryforwards expire in 2013 to 2026.

Noncontrolling Interests in Net Income

Noncontrolling interests in net income for 2007 and 2006 primarily reflects the share of net income realized by the Company's TECH joint venture attributable to the noncontrolling interests in TECH. On March 30, 2007, the Company acquired all of the shares of TECH common stock held by the Singapore Economic Development Board for approximately $290 million, reducing the noncontrolling interests in TECH as of that date from 57% to 27%.

Stock-Based Compensation

Total compensation cost for the Company's equity plans was $10 million for the second quarter of 2007, $10 million for the first quarter of 2007 and $6 million for the second quarter of 2006. As of March 1, 2007, $2 million of stock compensation costs were capitalized and remained in inventory. As of March 1, 2007, there was $139 million of total unrecognized compensation cost related to equity plans, which is expected to be recognized through the second quarter of 2011. In 2005, the Company accelerated the vesting of substantially all of its unvested stock options then outstanding under the Company's stock plans to reduce compensation costs recognized subsequent to the adoption in 2006 of Statement of Financial Accounting Standards ("SFAS") No. 123(R), "Share-Based Payment." Because the Company's stock-based compensation costs were reduced by the effect of the acceleration of vesting in 2005, stock-based compensation costs will continue to grow in future periods if the Company continues to grant amounts of new stock-based compensation awards.

Liquidity and Capital Resources

The Company's liquidity is highly dependent on average selling prices for its products and the timing of capital expenditures, both of which can vary significantly from period to period. As of March 1, 2007, the Company had cash and equivalents and short-term investments totaling $2.2 billion compared to $3.1 billion as of August 31, 2006. The balance as of March 1, 2007, included an aggregate of $277 million held at, and anticipated to be used in the near term by, IM Flash and TECH.

Operating Activities: For the first six months of 2007, the Company generated $716 million of cash from operating activities, which principally reflects the Company's $63 million of net income adjusted by $800 million for non-cash depreciation and amortization expense. Net cash provided by operating activities was net of the effects of an increase of $331 million in inventories primarily due to increases in production and higher levels of Memory inventories required to support a more diversified product portfolio and, with respect to Imaging, weakness in the mobile handset market.

Investing Activities: For the first six months of 2007, net cash used by investing activities was $1.2 billion, which included cash expenditures for property, plant and equipment of $2.2 billion partially offset by the net effect of purchases, sales and maturities of investment securities of $1.0 billion. A significant portion of the capital expenditures relate to the ramp of IM Flash facilities and 300mm conversion at TECH. The Company believes that to develop new product and process technologies, support future growth, achieve operating efficiencies and maintain product quality, it must continue to invest in manufacturing technologies, facilities and capital equipment, research and development, and product and process technologies. The Company expects capital spending for the remainder of 2007 to approximate $1.8 billion, of which approximately $0.5 billion is expected to be funded by capital contributions from joint venture partners. The Company currently anticipates 2008 capital spending to be between $2.0 billion and $3.0 billion. As of March 1, 2007, the Company had commitments of approximately $720 million for the acquisition of property, plant and equipment, nearly all of which are expected to be paid within one year.

On December 11, 2006, the Company acquired the CMOS image sensor business of Avago Technologies Limited for approximately $53 million in cash, plus additional contingent payments up to $17 million if certain milestones are met. The Company made payments of $55 million in the second quarter of 2007 in connection with this acquisition.

On March 30, 2007, the Company acquired all of the shares of TECH common stock held by the Singapore Economic Development Board for approximately $290 million payable over nine months, increasing its ownership interest in TECH from 43% to 73%.

Financing Activities: For the first six months of 2007, net cash provided by financing activities was $614 million, which includes $647 million in capital contributions received from a joint venture partner and $309 million in proceeds from equipment financing arrangements that are payable in periodic installments over 5 years. The Company also made an aggregate of $391 million in scheduled debt payments and payments on equipment purchase contracts in the first six months of 2007.

The Company's TECH joint venture has a credit facility that enables it to borrow up to $400 million in future periods to fund its capital expenditures.

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

Joint Ventures: As of March 1, 2007, IM Flash had $162 million of cash and marketable investment securities. IM Flash's cash and marketable investment securities are not anticipated to be made available to finance the Company's other operations. Subject to certain conditions, the Company expects to make additional contributions to IM Flash of approximately $2 billion over the next three years, with similar contributions to be made by Intel. The Company anticipates additional investments as appropriate to support the growth of IM Flash's operations.

As of March 1, 2007, TECH had $115 million of cash and marketable investment securities. TECH's cash and marketable investment securities are not anticipated to be made available to finance the Company's other operations.

See "Item 1. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements - Joint Ventures."

Contractual Obligations: As of March 1, 2007, contractual obligations for notes payable, capital lease obligations and operating leases were as follows:

	Total	Remainder of 2007	2008	2009	2010	2011	2012 and thereafter
Notes payable (including interest)	$ 275	$ 34	$ 67	$ 50	$ 119	$ 4	$ 1
Capital lease obligations	672	80	146	140	79	145	82
Operating leases	112	18	38	19	8	6	23

Recently Issued Accounting Standards

In February 2007, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities - Including an amendment of FASB Statement No. 115." Under SFAS No. 159, the Company may elect to measure many financial instruments and certain other items at fair value on an instrument by instrument basis subject to certain restrictions. The Company may adopt SFAS No. 159 at the beginning of 2008. The impact of the adoption of SFAS No. 159 will be dependent on the extent to which the Company elects to measure eligible items at fair value.

In September 2006, the SEC staff issued Staff Accounting Bulletin ("SAB") No. 108, "Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements." The Company is required to adopt SAB No. 108 by the end of 2007 and does not expect the adoption to have a significant impact on the Company's financial position or results of operations.

In September 2006, the FASB issued SFAS No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans - an amendment of FASB Statements No. 87, 88, 106, and 132(R)." Under SFAS No. 158, the Company is required to initially recognize the funded status of a defined benefit postretirement plan and to provide the required disclosures as of the end of 2007. The Company does not expect the adoption of SFAS No. 158 to have a significant impact on its financial position or results of operations.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements." SFAS No. 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS No. 157 applies under other accounting pronouncements that require or permit fair value measurements. The Company is required to adopt SFAS No. 157 effective at the beginning of 2009.

In June 2006, the FASB issued Interpretation No. 48 ("FIN 48"), "Accounting for Uncertainty in Income Taxes - an interpretation of FASB Statement No. 109." FIN 48 contains a two-step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The Company is required to adopt FIN 48 effective at the beginning of 2008. The Company is evaluating the impact this statement will have on its consolidated financial statements.

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments." SFAS No. 155 permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation. As of March 1, 2007, the Company did not have any hybrid financial instruments subject to the fair value election under SFAS No. 155. The Company is required to adopt SFAS No. 155 effective at the beginning of 2008.

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections." SFAS No. 154 changes the requirements for the accounting for and reporting of a change in accounting principle. The Company adopted SFAS No. 154 at the beginning of 2007. The adoption of SFAS No. 154 did not impact the Company's results of operations and financial condition.

Critical Accounting Estimates

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

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

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

Goodwill and intangible assets: The Company tests goodwill for impairment annually and whenever events or circumstances make it more likely than not that an impairment may have occurred, such as a significant adverse change in the business climate or a decision to sell or dispose of a reporting unit. Determining whether impairment has occurred requires valuation of the respective reporting unit. If the analysis indicates goodwill is impaired, measuring the impairment requires a fair value estimate of each identified tangible and intangible asset. The Company tests other identified intangible assets with definite useful lives and subject to amortization when events and circumstances indicate the carrying value may not be recoverable by comparing the carrying amount to the sum of undiscounted cash flows expected to be generated by the asset. The Company tests intangible assets with indefinite lives annually for impairment using a fair value method such as discounted cash flows. Estimating fair values involves significant assumptions, especially regarding future sales prices, sales volumes, costs and discount rates.

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

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

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

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

Property, plant and equipment: The Company reviews the carrying value of property, plant and equipment for impairment when events and circumstances indicate that the carrying value of an asset or group of assets may not be recoverable from the estimated future cash flows expected to result from its use and/or disposition. In cases where undiscounted expected future cash flows are less than the carrying value, an impairment loss is recognized equal to the amount by which the carrying value exceeds the estimated fair value of the assets. The estimation of future cash flows involves numerous assumptions which require judgment by the Company, including, but not limited to, future use of the assets for Company operations versus sale or disposal of the assets, future selling prices for the Company's products and future production and sales volumes. In addition, judgment is required by the Company in determining the groups of assets for which impairment tests are separately performed.

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

Stock-based compensation: Under the provisions of SFAS No. 123(R), stock-based compensation cost is estimated at the grant date based on the fair-value of the award and is recognized as expense ratably over the requisite service period of the award. Determining the appropriate fair-value model and calculating the fair value of stock-based awards at the grant date requires considerable judgment, including estimating stock price volatility, expected option life and forfeiture rates. The Company develops its estimates based on historical data and market information which can change significantly over time. A small change in the estimates used can result in a relatively large change in the estimated valuation.

The Company uses the Black-Scholes option valuation model to value employee stock awards. The Company estimates stock price volatility based on an average of its historical volatility and the implied volatility derived from traded options on the Company's stock. Estimated option life and forfeiture rate assumptions are derived from historical data. For stock based compensation awards with graded vesting that were granted after 2005, the Company recognizes compensation expense using the straight-line amortization method.

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

Interest Rate Risk

As of March 1, 2007, $734 million of the Company's $822 million in total debt was at fixed interest rates. As a result, the fair value of the debt fluctuates based on changes in market interest rates. The estimated fair market value of the Company's debt was $844 million as of March 1, 2007. The difference between the estimated fair value of the Company's debt and its recorded value is primarily attributable to the Company's convertible debt.

Foreign Currency Exchange Rate Risk

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

The functional currency for substantially all of the Company's operations is the U.S. dollar. The Company held aggregate cash and other assets in foreign currencies valued at U.S. $388 million as of March 1, 2007, and U.S. $425 million as of August 31, 2006 (including cash and equivalents denominated in yen valued at U.S. $197 million as of March 1, 2007, and U.S. $222 million as of August 31, 2006; cash and equivalents denominated in Singapore dollars valued at U.S. $15 million as of March 1, 2007 and $42 million as of August 31, 2006; and deferred income tax assets denominated in yen valued at U.S. $70 million as of March 1, 2007, and U.S. $64 million as of August 31, 2006). The Company also held aggregate foreign currency liabilities valued at U.S. $617 million as of March 1, 2007, and U.S. $615 million as of August 31, 2006 (including debt denominated in yen valued at U.S. $194 million as of March 1, 2007, and U.S. $228 million as of August 31, 2006). Foreign currency receivables and payables as of March 1, 2007, were comprised primarily of yen, euros and Singapore dollars. The Company estimates that, based on its assets and liabilities denominated in currencies other than U.S. dollar as of March 1, 2007, a 1% change in the exchange rate versus the U.S. dollar would result in foreign currency gains or losses of approximately $1 million for the euro, the yen and the Singapore dollar.

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

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

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

PART II. OTHER INFORMATION

Item 1. ***Legal Proceedings***

On August 28, 2000, the Company filed a complaint against Rambus, Inc. ("Rambus") in the U.S. District Court for the District of Delaware seeking monetary damages and declaratory and injunctive relief. Among other things, the Company's complaint (as amended) alleges violation of federal antitrust laws, breach of contract, fraud, deceptive trade practices, and negligent misrepresentation. The complaint also seeks a declaratory judgment (a) that certain Rambus patents are not infringed by the Company, are invalid, and/or are unenforceable, (b) that the Company has an implied license to those patents, and (c) that Rambus is estopped from enforcing those patents against the Company. On February 15, 2001, Rambus filed an answer and counterclaim in Delaware denying that the Company is entitled to relief, alleging infringement of the eight Rambus patents named in the Company's declaratory judgment claim, and seeking monetary damages and injunctive relief. A number of other suits are currently pending in Europe alleging that certain of the Company's SDRAM and DDR SDRAM products infringe various of Rambus' country counterparts to its European patent 525 068, including: on September 1, 2000, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany; on September 22, 2000, Rambus filed a complaint against the Company and Reptronic (a distributor of the Company's products) in the Court of First Instance of Paris, France; on September 29, 2000, the Company filed suit against Rambus in the Civil Court of Milan, Italy, alleging invalidity and non-infringement. In addition, on December 29, 2000, the Company filed suit against Rambus in the Civil Court of Avezzano, Italy, alleging invalidity and non-infringement of the Italian counterpart to European patent 1 004 956. Additionally, other suits are pending alleging that certain of our DDR SDRAM products infringe Rambus' country counterparts to its European patent 1 022 642, including: on August 10, 2001, Rambus filed suit against the Company and Assitec (an electronics retailer) in the Civil Court of Pavia, Italy; and on August 14, 2001, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany. In the European suits against the Company, Rambus is seeking monetary damages and injunctive relief. Subsequent to the filing of the various European suits, the European Patent Office declared Rambus' 525 068 and 1 004 956 European patents invalid and revoked the patents. On January 13, 2006, Rambus filed a lawsuit against the Company in the U.S. District Court for the Northern District of California alleging infringement of eighteen Rambus patents.

On June 2, 2005, Tadahiro Ohmi ("Ohmi") filed suit against the Company in the U.S. District Court for the Eastern District of Texas (amended on August 31, 2005) alleging infringement of a single Ohmi patent. On August 31, 2005, an amended complaint was filed substituting the Foundation for Advancement of International Science as the plaintiff.

On October 3, 2006, the Massachusetts Institute of Technology ("MIT") filed suit against the Company in the U.S. District Court for the District of Massachusetts alleging infringement of a single MIT patent.

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

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

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

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

Subsequent to the commencement of the DOJ investigation, a number of purported class action lawsuits have been filed against the Company and other DRAM suppliers. Eighteen cases have been filed in various federal district courts (two of which have been dismissed) asserting claims on behalf of a purported class of individuals and entities that purchased DRAM directly from the various DRAM suppliers during the period from April 1, 1999 through at least June 30, 2002. All of the cases have been transferred to the U.S. District Court for the Northern District of California for consolidated proceedings. The complaints allege price-fixing in violation of federal antitrust laws and seek treble damages sustained by purported class members, in addition to restitution, costs and attorneys' fees, as well as an injunction against the allegedly unlawful conduct. On June 5, 2006, the Court granted plaintiffs' motion to certify the proposed class of direct purchasers. On January 9, 2007, Micron entered into a settlement agreement with the class of direct purchasers ("Direct Purchaser Settlement"). Under terms of the Direct Purchaser Settlement, Micron agreed to pay $91 million and will be dismissed with prejudice from the direct purchaser consolidated class-action suit. The Direct Purchaser Settlement is subject to approval by the U.S. District Court for the Northern District of California.

Four cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM from various DRAM suppliers during the time period from April 1, 1999 through at least June 30, 2002. The complaints allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys' fees. In addition, at least sixty-two cases have been filed in various state courts (five of which have been dismissed) asserting claims on behalf of a purported class of indirect purchasers of DRAM. Cases have been filed in the following states: Arkansas, Arizona, California, Florida, Hawaii, Iowa, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and West Virginia, and also in the District of Columbia and Puerto Rico. The complaints purport to be on behalf of a class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM in the respective jurisdictions during various time periods ranging from 1999 through the filing date of the various complaints. The complaints allege violations of the various jurisdictions' antitrust, consumer protection and/or unfair competition laws relating to the sale and pricing of DRAM products and seek treble monetary damages, restitution, costs, interest and attorneys' fees. A number of these cases have been removed to federal court and transferred to the U.S. District Court for the Northern District of California (San Francisco) for consolidated proceedings. The Direct Purchaser Settlement does not resolve these suits.

Additionally, three cases have been filed in the following Canadian courts: Superior Court, District of Montreal, Province of Quebec; Ontario Superior Court of Justice, Ontario; and Supreme Court of British Columbia, Vancouver Registry, British Columbia. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States. The Direct Purchaser Settlement does not resolve these suits.

In addition, various states, through their Attorneys General, have filed suit against the Company and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following states filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and the Commonwealth of the Northern Mariana Islands. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. The Direct Purchaser Settlement does not resolve these suits.

On February 28, 2007, February 28, 2007 and March 8, 2007, cases were filed against the Company and other manufacturers of DRAM in the U.S. District Court for the Northern District of California by All American Semiconductor, Inc., Jaco Electronics, Inc. and DRAM Claims Liquidation Trust, respectively, that opted-out of the Direct Purchaser class action. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies. The Direct Purchaser Settlement does not resolve these three suits.

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

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

In the first calendar quarter of 2007, at least fifteen purported class action lawsuits were filed against the Company and other suppliers of flash memory products. Thirteen of these were filed in the U.S. District Court for the Northern District of California. These cases assert claims on behalf of a purported class of individuals and entities that purchased Flash memory directly or indirectly from various Flash memory suppliers during the period from January 1, 1999 through the date the various cases were filed. The complaints generally allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek monetary damages, restitution, costs, interest, and attorneys' fees.

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

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

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

In addition, on March 23, 2006 a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for the benefit of the Company, against certain of the Company's current and former officers and directors. The Company also was named as a nominal defendant. An amended complaint was filed on August 23, 2006. The complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The complaint is derivative in nature and does not seek monetary damages from the Company. However, the Company may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants.

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

In March 2006, following the Company's announcement of a definitive agreement to acquire Lexar Media, Inc. ("Lexar") in a stock-for-stock merger, four purported class action complaints were filed in the Superior Court for the State of California (Alameda County) on behalf of shareholders of Lexar against Lexar and its directors. Two of the complaints also name the Company as a defendant. The complaints allege that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Lexar shareholders by, among other things, engaging in self-dealing, failing to engage in efforts to obtain the highest price reasonably available, and failing to properly value Lexar in connection with a merger transaction between Lexar and the Company. The plaintiffs seek, among other things, injunctive relief preventing, or an order of rescission reversing, the merger, compensatory damages, interest, attorneys' fees, and costs. On May 19, 2006, the plaintiffs filed a motion for preliminary injunction seeking to block the merger. On May 31, 2006, the Court denied the motion. An amended consolidated complaint was filed on October 10, 2006. The Company is unable to predict the outcome of these suits. A court determination against the Company could result in significant liability and could have a material adverse effect on the Company's business, results of operations or financial condition. (See "PART I. FINANCIAL INFORMATION - Item 1. Financial Statements and Supplementary Data - Notes to Consolidated Financial Statements - Lexar Media, Inc.")

(See "Item 1A. Risk Factors")

Item 1A. *Risk Factors*

In addition to the factors discussed elsewhere in this Form 10-Q, the following are important factors which could cause actual results or events to differ materially from those contained in any forward-looking statements made by or on behalf of the Company.

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

In the second quarter of 2007 average selling prices for DRAM products and NAND Flash products decreased 13% and 31%, respectively, as compared to the first quarter of 2007. In recent years, we have also experienced annual decreases in per megabit average selling prices for our memory products including: 34% in 2006, 24% in 2005, 17% in 2003, 53% in 2002 and 60% in 2001. At times, average selling prices for our memory products have been below our costs. If average selling prices for our memory products decrease faster than we can decrease per megabit costs, our business, results of operations or financial condition could be materially adversely affected.

Increased worldwide semiconductor memory production or lack of demand for semiconductor memory could lead to further declines in average selling prices.

The transitions to smaller line-width process technologies and 300mm wafers in the industry have resulted in significant increases in the worldwide supply of semiconductor memory and will likely lead to future increases. Increases in worldwide supply of semiconductor memory also result from semiconductor memory fab capacity expansions, either by way of new facilities, increased capacity utilization or reallocation of other semiconductor production to semiconductor memory production. We and several of our competitors have announced plans to increase production through construction of new facilities or expansion of existing facilities. Increases in worldwide supply of semiconductor memory, if not accompanied with commensurate increases in demand, would lead to further declines in average selling prices for our products and would materially adversely affect our business, results of operations or financial condition.

We may be unable to reduce our per megabit manufacturing costs at the same rate as we have in the past.

Historically, our gross margin has benefited from decreases in per unit manufacturing costs achieved through improvements in our manufacturing processes, including reducing the die size of our existing products. In future periods, we may be unable to reduce our per unit manufacturing costs or reduce these costs at historical rates due to strategic product diversification decisions affecting product mix, the ever increasing complexity of manufacturing processes, changes in process technologies or products which inherently may require relatively larger die sizes. Per unit manufacturing costs may also be affected by the relatively smaller production quantities and shorter product lifecycles of Imaging and certain specialty memory products.

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

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

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

- increasing our exposure to changes in average selling prices for NAND Flash;
- difficulties in establishing new production operations at multiple locations;
- increasing capital expenditures to increase production capacity and modify existing processes to produce NAND Flash;
- increasing debt to finance future investments;

- diverting management's attention from DRAM and CMOS Image sensor operations;
- managing larger operations and facilities and employees in separate geographic areas; and
- hiring and retaining key employees.

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

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

Our Imaging business represented 11% of our net sales in the second quarter of 2007. Despite growth in 2006, Imaging net sales and gross margins were down significantly in the second quarter of 2007 compared to the first quarter of 2007. There can be no assurance that we will be able to grow or maintain our market share or gross margins for Imaging products in the future. The success of our Imaging business will depend on a number of factors, including:

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

We may not be able to generate sufficient cash flows to fund our operations and make adequate capital investments.

Our cash flows from operations depend primarily on the volume of semiconductor memory and CMOS image sensors sold, average selling prices and per unit manufacturing costs. To develop new product and process technologies, support future growth, achieve operating efficiencies and maintain product quality, we must make significant capital investments in manufacturing technology, facilities and capital equipment, research and development, and product and process technology. We expect capital spending for the remainder of 2007 to approximate $1.8 billion, of which approximately $0.5 billion is expected to be funded by capital contributions from our joint venture partners. We currently anticipate 2008 capital spending to be between $2 billion and $3 billion. Cash and investments of IM Flash and TECH are generally not available to finance our other operations. In addition to cash provided by operations, we have from time to time utilized external sources of financing. Access to capital markets has historically been very important to us. Depending on market conditions, we may issue registered or unregistered securities to raise capital to fund a portion of our operations. There can be no assurance that we will be able to generate sufficient cash flows to fund our operations, make adequate capital investments or access capital markets on acceptable terms, and an inability to do so could have a material adverse effect on our business and results of operations.

The semiconductor industry is highly competitive.

We face intense competition in the semiconductor memory market from a number of companies, including Elpida Memory, Inc.; Hynix Semiconductor Inc.; Qimonda AG ADS; Samsung Electronics Co., Ltd.; SanDisk Corporation; Toshiba Corporation and from emerging companies in Taiwan and China, who have announced plans to significantly expand the scale of their operations. Some of our competitors are large corporations or conglomerates that may have greater resources to withstand downturns in the semiconductor markets in which we compete, invest in technology and capitalize on growth opportunities. Our competitors seek to increase silicon capacity, improve yields, reduce die size and minimize mask levels in their product designs. These factors have significantly increased worldwide supply and put downward pressure on prices.

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

We may have difficulty integrating the operations of Lexar.

If we are unable to successfully combine and integrate the Lexar operations, we may not be able to realize many of the anticipated benefits of the merger, which could harm our results of operations. In order to realize the benefits of the merger, we will need to timely integrate the technology, operations, and personnel of Lexar. Integrating the two companies will be a complex, time-consuming and expensive process that, even with proper planning and implementation, could significantly disrupt the businesses of Micron and Lexar. The challenges involved in this integration include: combining product and service offerings, optimizing inventory management over a broader distribution chain, and preserving customer, supplier and other important relationships of both Micron and Lexar. If we are not able to successfully integrate our operations with those of Lexar, our results of operations could be materially adversely affected.

Our internal control over financial reporting could be adversely affected by material weaknesses in Lexar's internal controls.

In Lexar's Annual Report on Form 10-K for the period ended December 31, 2005, and its Quarterly Report on Form 10-Q for the period ended March 31, 2006, Lexar reported material weaknesses with respect to its revenue recognition controls and inventory accounting controls. These control deficiencies resulted in audit adjustments to revenues, accounts receivable, cost of product revenues, deferred revenue, sales related accruals and inventory in Lexar's 2005 consolidated financial statements. As a result of these material weaknesses, Lexar concluded in its Annual Report and Quarterly Report that its internal control over financial reporting was not effective as of the end of the periods covered by the reports. While prior to the close of the merger Lexar continued to take steps to remediate these material weaknesses, there can be no assurance that we will be able to completely remediate these material weaknesses such that we will be able to conclude that our internal control over financial reporting is effective. We began consolidating the financial results of Lexar on June 22, 2006. However, due to the timing of the acquisition, the internal control over financial reporting relating to Lexar was exempt from testing and evaluation for 2006. To the extent we do not remediate the material weaknesses, the effectiveness of our internal control over financial reporting may be adversely affected.

Our net operating loss carryforwards may be limited as a result of the Lexar merger.

Micron and Lexar had net operating loss carryforwards for federal income tax purposes prior to the merger and both entities had provided significant valuation allowances against the tax benefit of such losses as well as certain tax credit carryforwards. Utilization of these net operating losses and credit carryforwards are dependent upon us achieving profitable results following the Lexar merger. As a consequence of the merger, as well as earlier issuances of common stock consummated by both companies and business combinations by the Company, utilization of the tax benefits of these carryforwards are subject to limitations imposed by Section 382 of the Internal Revenue Code. The determination of the limitations is complex and requires significant judgment and analysis of past transactions. Accordingly, some portion or all of these carryforwards may not be available to offset any future taxable income.

Our resellers receive price protections which may have an adverse affect on our gross margins.

NAND Flash sales are made through resellers which traditionally have been provided price protection. In an environment of slower demand and abundant supply of products, price declines and channel promotions expenses are more likely to occur. Further, in this environment, high channel inventory may result in substantial price protection charges. These price protection charges have the effect of reducing gross sales and gross margin. We expect to continue to incur price protection charges for the foreseeable future due to competitive pricing pressures and, as a result, our revenues and gross margins could be adversely affected.

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

Our financial statements are prepared in accordance with U.S. GAAP and are reported in U.S. dollars. Across our multi-national operations, there are transactions and balances denominated in other currencies, primarily the euro, yen and Singapore dollar. We estimate that, based on our assets and liabilities denominated in currencies other than U.S. dollar as of March 1, 2007, a 1% change in the exchange rate versus the U.S. dollar would result in foreign currency gains or losses of approximately $1 million for the euro, the yen and the Singapore dollar. In the event that the U.S. dollar weakens significantly compared to the euro, yen or Singapore dollars, our results of operations or financial condition will be adversely affected.

New product development may be unsuccessful.

We are developing new products that complement our traditional memory products or leverage their underlying design or process technology. We have made significant investments in product and process technologies and anticipate expending significant resources for new semiconductor product development over the next several years. The process to develop NAND Flash, Imaging and certain specialty memory products requires us to demonstrate advanced functionality and performance, many times well in advance of a planned ramp of production, in order to secure design wins with our customers. There can be no assurance that our product development efforts will be successful, that we will be able to cost-effectively manufacture these new products, that we will be able to successfully market these products or that margins generated from sales of these products will recover costs of development efforts.

An adverse determination that our products or manufacturing processes infringe the intellectual property rights of others could materially adversely affect our business, results of operations or financial condition.

As is typical in the semiconductor and other high technology industries, from time to time, others have asserted, and may in the future assert, that our products or manufacturing processes infringe their intellectual property rights. In this regard, we are engaged in litigation with Rambus, Inc. (“Rambus”) relating to certain of Rambus’ patents and certain of our claims and defenses. On August 28, 2000, we filed a complaint (subsequently amended) against Rambus in the U.S. District Court for the District of Delaware seeking monetary damages and declaratory and injunctive relief. Among other things, our amended complaint alleges violation of federal antitrust laws, breach of contract, fraud, deceptive trade practices, and negligent misrepresentation. The complaint also seeks a declaratory judgment (a) that certain Rambus patents are not infringed by us, are invalid, and/or are unenforceable, (b) that we have an implied license to those patents, and (c) that Rambus is estopped from enforcing those patents against us. On February 15, 2001, Rambus filed an answer and counterclaim in Delaware denying that we are entitled to relief,

alleging infringement of the eight Rambus patents named in our declaratory judgment claim, and seeking monetary damages and injunctive relief. A number of other suits are pending in Europe alleging that certain of our SDRAM and DDR SDRAM products infringe various of Rambus' country counterparts to its European patent 525 068, including: on September 1, 2000, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany; on September 22, 2000, Rambus filed a complaint against us and Reptronic (a distributor of our products) in the Court of First Instance of Paris, France; and on September 29, 2000, we filed suit against Rambus in the Civil Court of Milan, Italy, alleging invalidity and non-infringement. In addition, on December 29, 2000, we filed suit against Rambus in the Civil Court of Avezzano, Italy, alleging invalidity and non-infringement of the Italian counterpart to European patent 1 004 956. Additionally, other suits are pending alleging that certain of our DDR SDRAM products infringe Rambus' country counterparts to its European patent 1 022 642, including: on August 10, 2001, Rambus filed suit against us and Assitec (an electronics retailer) in the Civil Court of Pavia, Italy; and on August 14, 2001, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany. In the European suits against us, Rambus is seeking monetary damages and injunctive relief. Subsequent to the filing of the various European suits, the European Patent Office declared Rambus' 525 068 and 1 004 956 European patents invalid and revoked the patents. On January 13, 2006, Rambus filed a lawsuit against us in the U.S. District Court for the Northern District of California alleging infringement of eighteen Rambus patents. We also are engaged in litigation with Tadahiro Ohmi ("Ohmi"). On June 2, 2005, Ohmi filed suit against us in the U.S. District Court for the Eastern District of Texas (amended on August 31, 2005 substituting the Foundation for Advancement of International Science as the plaintiff) alleging infringement of a single Ohmi patent. We are also engaged in litigation with Mosaid Technologies, Inc. ("Mosaid"). On July 24, 2006, we filed a declaratory judgment action against Mosaid in the U.S. District Court for the Northern District of California seeking, among other things, a court determination that fourteen Mosaid patents are invalid, not enforceable, and/or not infringed. On July 25, 2006, Mosaid filed a lawsuit against us and others in the U.S. District Court for the Eastern District of Texas alleging infringement of nine Mosaid patents. On August 31, 2006, Mosaid filed an amended complaint adding two additional Mosaid patents. On October 23, 2006, the California Court dismissed our declaratory judgment suit based on lack of jurisdiction.

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

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

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

Allegations of anticompetitive conduct.

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

Subsequent to the commencement of the DOJ investigation, a number of purported class action lawsuits have been filed against us and other DRAM suppliers. Eighteen cases have been filed in various federal district courts (two of which have been dismissed) asserting claims on behalf of a purported class of individuals and entities that purchased DRAM directly from various DRAM suppliers during the period from April 1, 1999 through at least June 30, 2002. All of the cases have been transferred to the U.S. District Court for the Northern District of California for consolidated proceedings. The complaints allege price-fixing in violation of federal antitrust laws and seek treble damages sustained by purported class members, in addition to restitution, costs and attorneys' fees, as well as an injunction against the allegedly unlawful conduct. On June 5, 2006, the Court granted plaintiffs' motion to certify the proposed class of direct purchasers. On January 9, 2007, we entered into a settlement agreement with the class of direct purchasers ("Direct Purchaser Settlement"). Under terms of the Direct Purchaser Settlement, we agreed to pay $91 million and will be dismissed with prejudice from the direct purchaser consolidated class-action suit. The Direct Purchaser Settlement is subject to approval by the U.S. District Court for the Northern District of California.

Four cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM from various DRAM suppliers during the time period from April 1, 1999 through at least June 30, 2002. The complaints allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys' fees. In addition, at least sixty-two cases have been filed in various state and federal courts (five of which have been dismissed) asserting claims on behalf of a purported class of indirect purchasers of DRAM. Cases have been filed in the following states: Arkansas, Arizona, California, Florida, Hawaii, Iowa, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and West Virginia, and also in the District of Columbia and Puerto Rico. The complaints purport to be on behalf of individuals and entities that indirectly purchased DRAM and/or products containing DRAM in the respective jurisdictions during various time periods ranging from 1999 through the filing date of the various complaints. The complaints allege violations of various jurisdictions' antitrust, consumer protection and/or unfair competition laws relating to the sale and pricing of DRAM products and seek treble monetary damages, restitution, costs, interest and attorneys' fees. A number of these cases have been removed to federal court and transferred to the U.S. District Court for the Northern District of California (San Francisco) for consolidated proceedings. The Direct Purchaser Settlement does not resolve these suits.

Additionally, three cases have been filed in the following Canadian courts: Superior Court, District of Montreal, Province of Quebec; Ontario Superior Court of Justice, Ontario; and Supreme Court of British Columbia, Vancouver Registry, British Columbia. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States. The Direct Purchaser Settlement does not resolve these suits.

In addition, various states, through their Attorneys General, have filed suit against us and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following states filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and the Commonwealth of the Northern Mariana Islands. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. The Direct Purchaser Settlement does not resolve these suits.

In February and March 2007, three cases were filed against the Company and other manufacturers of DRAM in the U.S. District Court for the Northern District of California by parties that opted-out of the Direct Purchaser class action. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies. The Direct Purchaser Settlement does not resolve these suits.

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

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

In the first calendar quarter of 2007, at least fifteen purported class action lawsuits were filed against the Company and other suppliers of flash memory products. Thirteen of these were filed in the U.S. District Court for the Northern District of California. These cases assert claims on behalf of a purported class of individuals and entities that purchased Flash memory directly or indirectly from various Flash memory suppliers during the period from January 1, 1999 through the date the various cases were filed. The complaints generally allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek monetary damages, restitution, costs, interest, and attorneys' fees.

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

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

Allegations of violations of securities laws.

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

In addition, on March 23, 2006 a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for our benefit, against certain of our current and former officers and directors. We were also named as a nominal defendant. An amended complaint was filed on August 23, 2006. The complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The complaint is derivative in nature and does not seek monetary damages from us. However, we may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants.

In March 2006, following our announcement of a definitive agreement to acquire Lexar Media, Inc. ("Lexar") in a stock-for-stock merger, four purported class action complaints were filed in the Superior Court for the State of California (Alameda County) on behalf of shareholders of Lexar against Lexar and its directors. Two of the complaints also name us as a defendant. The complaints allege that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Lexar shareholders by, among other things, engaging in self-dealing, failing to engage in efforts to obtain the highest price reasonably available, and failing to properly value Lexar in connection with a merger transaction between Lexar and us. The plaintiffs seek, among other things, injunctive relief preventing, or an order of rescission reversing, the merger, compensatory damages, interest, attorneys' fees, and costs. On May 19, 2006, the plaintiffs filed a motion for preliminary injunction seeking to block the merger. On May 31, 2006, the Court denied the motion. An amended consolidated complaint was filed on October 10, 2006.

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

Economic and political conditions may harm our business.

Global economic conditions and the effects of military or terrorist actions may cause significant disruptions to worldwide commerce. If these disruptions result in delays or cancellations of customer orders, a decrease in corporate spending on information technology or our inability to effectively market, manufacture or ship our products. Global economic conditions may also affect consumer demand for devices that incorporate our products such as mobile phones, personal computers, flash memory cards and USB devices. As a result, our business, results of operations or financial condition could be materially adversely affected.

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

Sales to customers outside the United States approximated 67% of our consolidated net sales for the second quarter of 2007. In addition, we have manufacturing operations in Italy, Japan, Puerto Rico and Singapore. Our international sales and operations are subject to a variety of risks, including:

- currency exchange rate fluctuations,
- export and import duties, changes to import and export regulations, and restrictions on the transfer of funds,
- political and economic instability,
- problems with the transportation or delivery of our products,
- issues arising from cultural or language differences and labor unrest,
- longer payment cycles and greater difficulty in collecting accounts receivable, and
- compliance with trade and other laws in a variety of jurisdictions.

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

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

We manufacture products using highly complex processes that require technologically advanced equipment and continuous modification to improve yields and performance. Difficulties in the manufacturing process or the effects from a shift in product mix can reduce yields or disrupt production and may increase our per megabit manufacturing costs. Additionally, our control over operations at our IM Flash, TECH and MP Mask joint ventures may be limited by our agreements with our partners. From time to time, we have experienced minor disruptions in our manufacturing process as a result of power outages or equipment failures. If production at a fabrication facility is disrupted for any reason, manufacturing yields may be adversely affected or we may be unable to meet our customers' requirements and they may purchase products from other suppliers. This could result in a significant increase in manufacturing costs or loss of revenues or damage to customer relationships, which could materially adversely affect our business, results of operations or financial condition.

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

Our operations require raw materials that meet exacting standards. We generally have multiple sources of supply for our raw materials. However, only a limited number of suppliers are capable of delivering certain raw materials that meet our standards. Various factors could reduce the availability of raw materials such as silicon wafers, photomasks, chemicals, gases, lead frames and molding compound. Shortages may occur from time to time in the future. In addition, disruptions in transportation lines could delay our receipt of raw materials. Lead times for the supply of raw materials have been extended in the past. If our supply of raw materials is disrupted or our lead times extended, our business, results of operations or financial condition could be materially adversely affected.

Products that do not meet specifications or that contain, or are perceived by our customers to contain, defects or that are otherwise incompatible with end uses could impose significant costs on us or otherwise materially adversely affect our business, results of operations or financial condition.

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

- we may replace product or otherwise compensate customers for costs incurred or damages caused by defective or incompatible product, and
- we may encounter adverse publicity, which could cause a decrease in sales of our products.

We expect to make future acquisitions where advisable, which involve numerous risks.

We expect to make future acquisitions where we believe it is advisable to enhance shareholder value. Acquisitions involve numerous risks, including:

- difficulties in integrating the operations, technologies and products of the acquired companies,
- increasing capital expenditures to upgrade and maintain facilities,
- increasing debt to finance any acquisition,
- diverting management's attention from normal daily operations,
- managing larger operations and facilities and employees in separate geographic areas, and
- hiring and retaining key employees.

Mergers and acquisitions of high-technology companies are inherently risky, and future acquisitions may not be successful and may materially adversely affect our business, results of operations or financial condition.

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

During the second quarter of 2007, the Company acquired, as payment of withholding taxes in connection with the vesting of restricted stock awards, an aggregate of 72,539 shares of its common stock as follow:

Period	(a) Total number of shares purchased	(b) Average price paid per share	(c) Total number of shares (or units) purchased as part of publicly announced plans or programs	(d) Maximum number (or approximate dollar value) of shares (or units) that may yet be purchased under the plans or programs
December 1 - January 4	53,374	$13.64	N/A	N/A
January 5 - February 1	--	--	N/A	N/A
February 2 - March 1	19,165	$12.36	N/A	N/A
Total	72,539	$13.30		

The 72,539 shares of the Company's common stock acquired in the second quarter of 2007 were retired in the quarter.

Item 6. ***Exhibits***

Exhibit Number	Description of Exhibit
3.1	Articles of Incorporation of Registrant, Restated (1)
3.7	Bylaws of the Registrant, As Amended (2)
4.15	Indenture, dated March 30, 2005 by and between Lexar Media, Inc. ("Lexar") and U.S. Bank National Association (the "Lexar Indenture") (3)
4.16	First Supplemental Indenture to the Lexar Indenture dated as of June 21, 2006 between Lexar and U.S. Bank National Association.
10.62	2004 Equity Incentive Plan Forms of Agreement and Terms and Conditions
10.67*	Omnibus Agreement, dated as of February 27, 2007, between Micron Technology, Inc. and Intel Corporation
10.68*	Limited Liability Partnership Agreement, dated as of February 27, 2007, between Micron Semiconductor Asia Pte. Ltd. and Intel Technology Asia Pte. Ltd.
10.69*	Supply Agreement, dated as of February 27, 2007, between Micron Semiconductor Asia Pte. Ltd. and IM Flash Singapore, LLP
10.156*	Amended and Restated Limited Liability Company Operating Agreement of IM Flash Technologies, LLC, dated as of February 27, 2007, between Micron Technology, Inc. and Intel Corporation
10.164*	Supply Agreement, dated as of February 27, 2007, between Intel Technology Asia Pte. Ltd.
31.1	Rule 13a-14(a) Certification of Chief Executive Officer
31.2	Rule 13a-14(a) Certification of Chief Financial Officer
32.1	Certification of Chief Executive Officer Pursuant to 18 U.S.C. 1350
32.2	Certification of Chief Financial Officer Pursuant to 18 U.S.C. 1350

* Portions of this exhibit have been omitted pursuant to a request for confidential treatment filed with the Commission.
(1) Incorporated by reference to Quarterly Report on Form 10-Q for the fiscal quarter ended May 31, 2001
(2) Incorporated by reference to Current Report on Form 8-K dated December 5, 2006
(3) Incorporated by reference to Lexar's Current Report on Form 8-K dated March 30, 2005

SIGNATURES

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

Micron Technology, Inc.
(Registrant)

Date: April 10, 2007

/s/ W. G. Stover, Jr.
W. G. Stover, Jr., Vice President of Finance and Chief Financial Officer (Principal Financial and Accounting Officer)

LEXAR MEDIA, INC.

To

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of

June 21, 2006

Supplementing the Indenture, dated
as of March 30, 2005, between
Lexar Media, Inc. and
U.S. Bank National Association

5.625% Senior Convertible Notes due 2010

FIRST SUPPLEMENTAL INDENTURE, dated as of June 21, 2006 (this "**First Supplemental Indenture**"), between Lexar Media, Inc., a Delaware corporation (the "**Company**"), having its principal office at 47300 Bayside Parkway, Fremont, CA 94538 and U.S. Bank National Association, a national banking association organized under the laws of the United States, as Trustee under the Indenture referred to herein (the "**Trustee**"). This First Supplemental Indenture shall become effective only immediately after the closing of the Merger in accordance with the Merger Agreement.

WHEREAS, the Company and the Trustee heretofore executed and delivered an Indenture, dated as of March 30, 2005 (the "**Indenture**"), in respect of the 5.625% Senior Convertible Notes due 2010 (each, a **"Security"** and collectively, the "**Securities**"); and

WHEREAS, the Company has entered into an Agreement and Plan of Merger, dated as of March 8, 2006, with Micron Technology, Inc., a Delaware corporation ("**Parent**"), March 2006 Merger Corp. ("**Merger Sub**"), a Delaware corporation and direct wholly owned subsidiary of Parent (as amended through the date hereof, the "**Merger Agreement**"), which provides that March 2006 Merger Corp. will merge with and into the Company, the separate corporate existence of March 2006 Merger Corp. shall cease and the Company shall continue as the surviving corporation and as a wholly owned subsidiary of Parent (the "**Merger**"); and

WHEREAS, the Merger is expected to be consummated on June 21, 2006; and

WHEREAS, each share of Company common stock, par value $0.0001 per share, of the Company issued and outstanding immediately prior to the effective time of the Merger, other than any shares of Company common stock to be canceled pursuant to Section 1.6(c) of the Merger Agreement, will be canceled and extinguished and automatically converted into the right to receive 0.5925 (the "**Exchange Ratio**") of a validly issued, fully paid and nonassessable share of the common stock, par value $0.10 per share, of Parent (subject to cash to be paid in lieu of fractional shares of Parent common stock); and

WHEREAS, Section 4.11(a)(A) of the Indenture provides that, as a condition precedent to a merger, the Company shall execute and deliver to the Trustee a supplemental indenture providing that the holder of each Security then outstanding shall have the right to convert such Security into the kind and amount of shares of stock, other securities and property (including cash) receivable upon effectiveness of such merger by a holder of a number of shares of Company common stock deliverable upon conversion of such Security immediately prior to effectiveness of such merger; and

WHEREAS, Section 4.11(a) of the Indenture further provides that such supplemental indenture executed and delivered by the Company in the case of a merger shall provide for adjustments of the Conversion Rate (as defined in the Indenture) which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in Article 4 of the Indenture; and

WHEREAS, Section 11.1(a)(8) of the Indenture provides that in the case of a merger, the Company and the Trustee may amend or supplement the Indenture or Securities without notice to or consent of any holder of Securities for the purpose of complying with the provisions of the Indenture in the event of a merger, consolidation or transfer of assets (including the provisions of Section 4.11 of the Indenture); and

WHEREAS the Company desires to execute and deliver this First Supplemental Indenture in accordance with Section 4.11(a)(A) of the Indenture; and

WHEREAS, this First Supplemental Indenture has been duly authorized by all necessary corporate action on the part of the Company and the Trustee; and

NOW, THEREFORE, the Company and the Trustee agree as follows that the following Sections of this First Supplemental Indenture supplement the Indenture:

ARTICLE I

ASSUMPTION BY SUCCESSOR CORPORATION

SECTION 1.1 Definitions.

(a) Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

(b) Section 1.1 of the Indenture is hereby supplemented and amended as follows:

The definition of "**Common Stock**" shall, upon consummation of the Merger, mean the common stock of Parent $0.10 par value per share as it exists on the date of this First Supplemental Indenture and any shares of any class or classes of capital stock of the Parent resulting from any reclassification or reclassifications thereof and which have no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Parent and which are not subject to redemption by the Parent; provided, however, that if at any time there shall be more than one such resulting class, the shares of each such class then so issuable on conversion of Securities shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

The definition of "**Merger**" shall mean the merger of March 2006 Merger Corp., a wholly owned subsidiary of Parent, with and into the Company pursuant to that certain Agreement and Plan of Merger, dated as of March 8, 2006, as amended, by and among Parent, the Company and March 2006 Merger Corp., with the Company continuing as the surviving corporation and as a wholly owned subsidiary of Parent.

The definition of "**Parent**" shall mean Micron Technology, Inc., a Delaware corporation.

SECTION 1.2 Amendments to Original Indenture

(a) *Conversion Privilege and Conversion Rate*. Section 4.1(d) of the Indenture is amended and restated to read in its entirety as set forth in Annex A hereto.

(b) *Notices*. Section 12.2 of the Indenture is amended and restated to read in its entirety as set forth in Annex B hereto.

ARTICLE II

MISCELLANEOUS

SECTION 2.1 Effect of Supplemental Indenture. Upon the consummation of the Merger, the Indenture shall be supplemented in accordance herewith, and this First Supplemental Indenture shall form a part of the Indenture for all purposes, and every holder of Securities heretofore or hereafter authenticated and delivered under the Indenture shall be bound thereby.

SECTION 2.2 Indenture Remains in Full Force and Effect. Except as supplemented hereby, all provisions in the Indenture shall remain in full force and effect.

SECTION 2.3 Indenture and Supplemental Indenture Construed Together. This First Supplemental Indenture is an indenture supplemental to the Indenture, and the Indenture and this First Supplemental Indenture shall henceforth be read and construed together.

SECTION 2.4 Securities Deemed Conformed. As of the date hereof, the provisions of the Securities shall be deemed to be conformed, without the necessity for any reissuance or exchange of such Security or any other action on the part of the holders of the Securities, the Company or the Trustee, so as to reflect this First Supplemental Indenture.

SECTION 2.5 Conflict with Trust Indenture Act. This First Supplemental Indenture is hereby made subject to, and shall be governed by, the provisions of the Trust Indenture Act required to be part of and to govern indentures qualified under the Trust Indenture Act. If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in an indenture qualified under the Trust Indenture Act, such required provision shall control.

SECTION 2.6 Severability. In case any provision in this First Supplemental Indenture shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 2.7 Terms Defined in the Indenture. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture.

SECTION 2.8 Benefits of First Supplemental Indenture Nothing in this First Supplemental Indenture, express or implied, shall give to any Person, other than the parties hereto, any paying agent, any authenticating agent, any Registrar and their successors hereunder and the holders of Securities any benefit or any legal or equitable right, remedy or claim under this First Supplemental Indenture.

SECTION 2.9 Governing Law. This First Supplemental Indenture shall be deemed to be a contract made under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of the State of New York, without regard to conflicts of laws principles thereof.

SECTION 2.10 Execution in Counterparts. This First Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this First Supplemental Indenture to be duly executed as of the date first written above.

LEXAR MEDIA, INC.

By: /S/ Eric Stang
Name: Eric Stang
Title: Chairman and CEO

U.S. BANK NATIONAL
ASSOCIATION, as Trustee

By: /S/ Paula Oswald
Name: Paula Oswald
Title: Vice President

ANNEX A

"**Section 4.1. CONVERSION PRIVILEGE AND CONVERSION RATE.**

(d) The rate at which shares of Common Stock shall be delivered upon conversion shall be initially 149.6558 shares of Common Stock for each $1,000 principal amount of Securities. Upon consummation of the Merger, the number of shares of Common Stock to be delivered upon conversion of each $1,000 principal amount of Securities shall be 88.6711 (the "**Conversion Rate**"). The Conversion Rate shall be adjusted in certain instances as provided in this Article 4. The "**Conversion Price**" at any particular time shall equal $1,000 divided by the Conversion Rate at the then applicable time and shall be adjusted in certain instances as provided in this Article 4."

ANNEX B

"**Section 12.2 NOTICES.**

Any demand, authorization notice, request, consent or communication shall be given in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission (confirmed by delivery in person or mail by first-class mail, postage prepaid, or by guaranteed overnight courier) to the following facsimile numbers:

If to the Company, to:

Micron Technology, Inc.
8000 S. Federal Way
Boise, Idaho 83716
Attention: General Counsel
Facsimile No.: (208) 368-4617
Telephone No.: (208) 368-4000

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue
Suite 1100
Palo Alto, California 94301
Attention: Kenton J. King
Celeste E. Greene
Facsimile No.: (650) 470-4570
Telephone No.: (650) 470-4500"

EXHIBIT 10.62

Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 557
Boise, ID 83716

2004 Equity Incentive Plan Forms of Agreement and Terms and Conditions

2004 Equity Incentive Plan
Name: <Employee Name>
Notice of Award and Restricted Stock Agreement
ID:
Grant Number:
Address:

Effective (Grant Date), you have been awarded shares of Micron Technology, Inc. (the Company) Common Stock.
This Restricted Stock Award is subject to the following:

1. The terms and conditions of this Restricted Stock Agreement and

2. The terms and conditions of the 2004 Equity Incentive Plan.

Please review the Restricted Stock Agreement and 2004 Equity Incentive Plan carefully, as they contain the terms and conditions which govern your Restricted Stock Award. In addition, a Prospectus summarizing the Plan and the Insider Trading Calendar and Policy are available for your review. Unless sooner vested in accordance with Section 3 of the Restricted Stock Agreement or otherwise in the discretion of the Committee, the restrictions imposed under Section 2 of the Restricted Stock Agreement will expire as to the following number of Shares awarded hereunder, on the following respective dates; provided that Grantee is then still an employee by the company or any Affiliate:

Restriction Lapse Schedule

Shares	Date of Expiration of Restrictions

Acknowledgement

Grantee hereby acknowledges that he/she has reviewed (i) the terms and conditions of this Restricted Stock Agreement and (ii) the 2004 Equity Incentive Plan and is familiar with the provisions thereof. Grantee acknowledges that a Prospectus relating to the Plan was made available for review. Grantee hereby accepts this Award subject to all of the terms and provisions of the Plan and Restricted Stock Agreement. Grantee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan.

Grantee acknowledges that the grant and acceptance of this Award do not constitute an employment agreement and do not assure continuous employment with Micron Technology, Inc., its affiliated companies, or subsidiaries.

Grantee authorizes Micron Technology, Inc. to release his/her Social Security Number or Global ID and address information to the Company's Broker who has agreed to provide brokerage service for stock plan participants for the purposes of opening an account under his/her name.

MICRON TECHNOLOGY, INC.
a Delaware Corporation

_____

Signature: _____
[employee]

Date: _____

RESTRICTED STOCK AGREEMENT TERMS AND CONDITIONS

1. Grant of Shares. The Company hereby grants to the Grantee named on the Notice of Award ("Grantee"), subject to the restrictions and the other terms and conditions set forth in the Micron Technology, Inc. 2004 Equity Incentive Plan (the "Plan") and in this award agreement (this "Agreement"), the number of shares indicated on the Notice of Award of the Company's $0.10 par value common stock (the "Shares"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Plan.

2. Restrictions. The Shares are subject to each of the following restrictions. "Restricted Shares" mean those Shares that are subject to the restrictions imposed hereunder and such restrictions have not then expired or terminated. Restricted Shares may not be sold, transferred, exchanged, assigned, pledged, hypothecated or otherwise encumbered. If Grantee's service as a director of the Company or employment with the Company or any Affiliate terminates for any reason other than as set forth in paragraph (b) or (c) of Section 3 hereof, then Grantee shall forfeit all of Grantee's right, title and interest in and to the Restricted Shares as of the date of termination of such service or employment, and such Restricted Shares shall revert to the Company. The restrictions imposed under this Section shall apply to all shares of the Company's common stock or other securities issued in connection with any merger, reorganization, consolidation, recapitalization, stock dividend or other change in corporate structure affecting or with respect to the Shares.

3. Expiration and Termination of Restrictions. The restrictions imposed under Section 2 will expire on the earliest to occur of the following (the period prior to such expiration being referred to herein as the "Restricted Period"):

(a) On the respective expiration dates specified on the Notice of Award as to the number of Shares specified thereon; provided Grantee is then still employed by the Company or any Affiliate or still serves as a director of the Company;

(b) Termination of Grantee's service as a director of the Company or employment by the Company and all Affiliates by reason of death or Disability; or

(c) Upon the occurrence of a Change in Control.

4. Delivery of Shares. The Shares will be registered in the name of Grantee as of the Grant Date and will be held by the Company during the Restricted Period in certificated or uncertificated form. If a certificate for Restricted Shares is issued during the Restricted Period with respect to such Shares, such certificate shall be registered in the name of Grantee and shall bear a legend in substantially the following form:

"This certificate and the shares of stock represented hereby are subject to the terms and conditions (including forfeiture and restrictions against transfer) contained in a Restricted Stock Agreement between the registered owner of the shares represented hereby and Micron Technology, Inc. Release from such terms and conditions shall be made only in accordance with the provisions of such Agreement, copies of which are on file in the offices of Micron Technology, Inc."

Stock certificates for the Shares, without the above legend, shall be delivered to Grantee or Grantee's designee upon request of Grantee after the expiration of the Restricted Period, but delivery may be postponed for such period as may be required for the Company with reasonable diligence to comply if deemed advisable by the Company, with registration requirements under the Securities Act of 1933, listing requirements under the rules of any stock exchange, and requirements under any other law or regulation applicable to the issuance or transfer of the Shares.

5. Voting and Dividend Rights. Grantee, as beneficial owner of the Shares, shall have full voting and dividend rights with respect to the Shares during and after the Restricted Period. If Grantee forfeits any rights he may have under this Agreement in accordance with Section 2, Grantee shall no longer have any rights as a shareholder with respect to the Restricted Shares or any interest therein and Grantee shall no longer be entitled to receive dividends on such stock.

6. Changes in Capital Structure. In the event of a corporate event or transaction involving the Company (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, split-up, spin-off, combination or exchange of shares), the Committee may adjust this award to preserve the benefits or potential benefits of this award. Without limiting the foregoing, in the event of a subdivision of the outstanding Stock (stock split), a declaration of a dividend payable in Stock, or a combination or consolidation of the outstanding Stock into a lesser number of Shares, the Shares then subject to this Agreement shall automatically be adjusted proportionately.

7. No Right of Continued Employment. With respect to a grantee who is employed by the Company or an Affiliate, nothing in this Agreement shall interfere with or limit in any way the right of the Company or any Affiliate to terminate such grantee's employment at any time, nor confer upon any such grantee any right to continue in the employ of the Company or any Affiliate.

8. Payment of Taxes. Upon issuance of the Shares hereunder, Grantee may make an election to be taxed upon such award under Section 83(b) of the Code. Grantee will, no later than the date as of which any amount related to the Shares first becomes includable in Grantee's gross income for federal income tax purposes, pay to the Company, or make other arrangements satisfactory to the Committee regarding payment of, any federal, state and local taxes of any kind required by law to be withheld with respect to such amount. The Committee may permit Grantee to surrender to the Company a number of Shares from this Award as necessary to pay the minimum applicable withholding tax obligation. The obligations of the Company under this Agreement will be conditional on such payment or arrangements, and the Company, and, where applicable, its Affiliates will, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to Grantee.

9. Amendment. The Committee may amend, modify or terminate the Award, Notice of Award and this Agreement without approval of the Grantee; provided, however, that such amendment, modification or termination shall not, without the Grantee's consent, reduce or diminish the value of this Award determined as if it had been fully vested on the date of such amendment or termination. Notwithstanding anything herein to the contrary, the Company is authorized, without Grantee's consent, to amend or interpret this Award, the Notice of Award and this Agreement certificate to the extent necessary, if any, to comply with Section 409A of the Code and Treasury regulations and guidance with respect to such law.

10. Plan Controls. The terms contained in the Plan are incorporated into and made a part of the Notice of Award and this Agreement and this Agreement shall be governed by and construed in accordance with the Plan. In the event of any actual or alleged conflict between the provisions of the Plan and the provisions of the Notice of Award and this Agreement, the provisions of the Plan shall be controlling and determinative.

11. Severability. If any one or more of the provisions contained in the Notice of Award and this Agreement is deemed to be invalid, illegal or unenforceable, the other provisions of the Notice of Award and this Agreement will be construed and enforced as if the invalid, illegal or unenforceable provision had never been included.

12. Notice. Notices and communications under the Notice of Award and this Agreement must be in writing and either personally delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid. Notices to the Company must be addressed to: Micron Technology, Inc., 8000 S. Federal Way, P.O. Box 6, Boise, ID 83716-9632, Attn: Secretary, or any other address designated by the Company in a written notice to Grantee. Notices to Grantee will be directed to the address of Grantee then currently on file with the Company, or at any other address given by Grantee in a written notice to the Company.

Micron Technology, Inc.

2004 Equity Incentive Plan
Notice of Grant of Stock Options and Option Agreement
Option Number:

Name:
Employee Number:
Address:

Effective _____(Grant Date), you have been granted a Nonqualified Stock Option to purchase _____ shares of Micron Technology, Inc. (the Company) Common Stock at $____(USD) per share.

This Option Grant is subject to the following:

1. The terms and conditions of this Option Agreement and

2. The terms and conditions of the 2004 Equity Incentive Plan.

Please review the Option Agreement and 2004 Equity Incentive Plan carefully, as they contain the terms and conditions which govern your option. In addition, a Prospectus summarizing the Plan and the Insider Trading Calendar and Policy are available for your review.

Subject to your continued employment, this Option may be exercised in whole or in part, in accordance with the following schedule:

Vesting Schedule

Shares	Vesting Date	Expiraton Date

Termination Period

This Option may be exercised for 30 days after termination of the Optionee's employment or consulting relationship with the Company. Upon the death or Disability of the Optionee, this Option will be may be exercised for such longer period as provided in the Plan. In no event shall this option be exercised later than the Expiration date as provided above.

Acknowledgement

Optionee hereby acknowledges that he/she has reviewed (i) the terms and conditions of this Option Agreement and 2004 Equity Incentive Plan (ii) the and is familiar with the provisions thereof. Optionee hereby accepts this Option subject to all of the terms and provisions of the Plan and Option Agreement. Optionee acknowledges that a Prospectus relating to the Plan was made available for review. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan.

Optionee acknowledges that the grant or acceptance of this Option do not constitute an employment agreement and do not assure continuous employment with Micron Technology, Inc., its affiliated companies, or subsidiaries.

Optionee authorizes Micron Technology, Inc. to release his/her Social Security Number or Global ID and address information to the Company's Broker who has agreed to provide brokerage service for stock plan participants for the purposes of opening an account under his/her name.

After accepting this agreement, you will receive an e-mail summarizing the terms of this Grant. Please print your e-mail confirmation.

To accept or reject this Option Agreement, click below:

Accept Reject

1. Grant of Option. Micron Technology, Inc. (the "Company") hereby grants to the Optionee named on the Notice of Grant ("Optionee"), under the Micron Technology, Inc. 2004 Equity Incentive Plan (the "Plan"), stock options to purchase from the Company (the "Options"), on the terms and on conditions set forth in this agreement (this "Agreement"), the number of shares indicated on the Notice of Grant of the Company's $0.10 par value common stock, at the exercise price per share set forth on the Notice of Grant. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Plan.

2. Vesting of Options. The Option shall vest (become exercisable) in accordance with the schedule shown on the Notice of Grant of this Agreement. Notwithstanding the foregoing vesting schedule, upon Optionee's death or Disability during his or her Continuous Status as a Participant, or upon a Change in Control, all Options shall become fully vested and exercisable.

3. Term of Options and Limitations on Right to Exercise. The term of the Options will be for a period of six years, expiring at 5:00 p.m., Mountain Time, on the tenth anniversary of the Grant Date (the "Expiration Date"). To the extent not previously exercised, the Options will lapse prior to the Expiration Date upon the earliest to occur of the following circumstances:

(a) Thirty days after the termination of Optionee's Continuous Status as a Participant for any reason other than by reason of Optionee's death or Disability.

(b) Twelve months after termination of Optionee's Continuous Status as Participant by reason of Disability.

(c) Twelve months after the date of Optionee's death, if Optionee dies while employed, or during the three-month period described in subsection (a) above or during the twelve-month period described in subsection (b) above and before the Options otherwise lapse. Upon Optionee's death, the Options may be exercised by Optionee's beneficiary designated pursuant to the Plan.

The Committee may, prior to the lapse of the Options under the circumstances described in paragraphs (a), (b) or (c) above, extend the time to exercise the Options as determined by the Committee in writing. If Optionee returns to employment with the Company during the designated post-termination exercise period, then Optionee shall be restored to the status Optionee held prior to such termination but no vesting credit will be earned for any period Optionee was not in Continuous Status as a Participant. If Optionee or his or her beneficiary exercises an Option after termination of service, the Options may be exercised only with respect to the Shares that were otherwise vested on Optionee's termination of service.

4. Exercise of Option. The Options shall be exercised by (a) written notice directed to the Global Stock Department of the Company or its designee at the address and in the form specified by the Company from time to time and (b) payment to the Company in full for the Shares subject to such exercise (unless the exercise is a broker-assisted cashless exercise, as described below). If the person exercising an Option is not Optionee, such person shall also deliver with the notice of exercise appropriate proof of his or her right to exercise the Option. Payment for such Shares may be, in (a) cash, (b) in the discretion of the Company, Shares previously acquired by the purchaser, which have been held by the purchaser for at least such period of time, if any, as necessary to avoid the recognition of an expense under generally accepted accounting principles as a result of the exercise of the Option, or (c) any combination thereof, for the number of Shares specified in such written notice. The value of surrendered Shares for this purpose shall be the Fair Market Value as of the last trading day immediately prior to the exercise date. To the extent permitted under Regulation T of the Federal Reserve Board, and subject to applicable securities laws and any limitations as may be applied from time to time by the Committee (which need not be uniform), the Options may be exercised through a broker in a so-called "cashless exercise" whereby the broker sells the Option Shares on behalf of Optionee and delivers cash sales proceeds to the Company in payment of the exercise price. In such case, the date of exercise shall be deemed to be the date on which notice of exercise is received by the Company and the exercise price shall be delivered to the Company by the settlement date.

5. Beneficiary Designation. Optionee may, in the manner determined by the Committee, designate a beneficiary to exercise the rights of Optionee hereunder and to receive any distribution with respect to the Options upon Optionee's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights hereunder is subject to all terms and conditions of this Agreement and the Plan, and to any additional restrictions deemed necessary or appropriate by the Committee. If no beneficiary has been designated or survives Optionee, the Options may be exercised by the legal representative of Optionee's estate, and payment shall be made to Optionee's estate. Subject to the foregoing, a beneficiary designation may be changed or revoked by Optionee at any time provided the change or revocation is filed with the Company.

6. Withholding. The Company or any employer Affiliate has the authority and the right to deduct or withhold, or require Optionee to remit to the employer, an amount sufficient to satisfy federal, state, and local taxes (including Optionee's FICA obligation) required by law to be withheld with respect to any taxable event arising as a result of the exercise of the Options. The withholding requirement may be satisfied, in whole or in part, at the election of the Company, by withholding from the Options Shares having a Fair Market Value on the date of withholding equal to the minimum amount (and not any greater amount) required to be withheld for tax purposes, all in accordance with such procedures as the Company establishes. If Shares are surrendered to satisfy withholding obligations in excess of the minimum withholding obligation, such Shares must have been held by the purchaser as fully vested shares for at least such period of time, if any, as necessary to avoid the recognition of an expense under generally accepted accounting principles. The Company has the authority to require Optionee to remit cash to the Company in lieu of the surrender of Shares for tax withholding obligations if the surrender of Shares in satisfaction of such withholding obligations would result in the Company's recognition of expense under generally accepted accounting principles.

7. Limitation of Rights. The Options do not confer to Optionee or Optionee's beneficiary designated pursuant to Paragraph 5 any rights of a shareholder of the Company unless and until Shares are in fact issued to such person in connection with the exercise of the Options. Nothing in this Agreement shall interfere with or limit in any way the right of the Company or any Affiliate to terminate Optionee's service at any time, nor confer upon Optionee any right to continue in the service of the Company or any Affiliate.

8. Stock Reserve. The Company shall at all times during the term of this Agreement reserve and keep available such number of Shares as will be sufficient to satisfy the requirements of this Agreement.

9. Restrictions on Transfer and Pledge. No right or interest of Optionee in the Options may be pledged, encumbered, or hypothecated to or in favor of any party other than the Company or an Affiliate, or shall be subject to any lien, obligation, or liability of Optionee to any other party other than the Company or an Affiliate. The Options are not assignable or transferable by Optionee other than by will or the laws of descent and distribution or pursuant to a domestic relations order that would satisfy Section 414(p)(1)(A) of the Code if such Section applied to an Option under the Plan; provided, however, that the Committee may (but need not) permit other transfers. The Options may be exercised during the lifetime of Optionee only by Optionee or any permitted transferee.

10. Restrictions on Issuance of Shares. If at any time the Committee shall determine in its discretion, that registration, listing or qualification of the Shares covered by the Options upon any Exchange or under any foreign, federal, or local law or practice, or the consent or approval of any governmental regulatory body, is necessary or desirable as a condition to the exercise of the Options, the Options may not be exercised in whole or in part unless and until such registration, listing, qualification, consent or approval shall have been effected or obtained free of any conditions not acceptable to the Committee.

11. Amendment. The Committee may amend, modify or terminate this Agreement without approval of the Optionee; provided, however, that such amendment, modification or termination shall not, without the Optionee's consent, reduce or diminish the value of this award determined as if it had been fully vested and exercised on the date of such amendment or termination (with the per-share value being calculated as the excess, if any, of the Fair Market Value over the exercise price of the Options). Notwithstanding anything herein to the contrary, the Company is authorized, without Grantee’s consent, to amend or interpret this Agreement to the extent necessary, if any, to comply with Section 409A of the Code and Treasury regulations and guidance with respect to such law.

12. Plan Controls. The terms and conditions contained in the Plan are incorporated into and made a part of this Agreement and this Agreement shall be governed by and construed in accordance with the Plan. In the event of any actual or alleged conflict between the provisions of the Plan and the provisions of this Agreement, the provisions of the Plan shall be controlling and determinative.

13. Successors. This Agreement shall be binding upon any successor of the Company, in accordance with the terms of this Agreement and the Plan.

14. Severability. If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable, the other provisions of this Agreement will be construed and enforced as if the invalid, illegal or unenforceable provision had never been included.

15. Notice. Notices and communications under this Agreement must be in writing and either personally delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid. Notices to the Company must be addressed to: Micron Technology, Inc., 8000 S. Federal Way, P.O. Box 6, Boise, ID 83716-9632, Attn: Secretary, or any other address designated by the Company in a written notice to Optionee. Notices to Optionee will be directed to the address of Optionee then currently on file with the Company, or at any other address given by Optionee in a written notice to the Company.

2004 Equity Incentive Plan
Notice of Award and Acknowledgment

Name:
ID:
Grant Number:

Effective GRANT_DATE (Grant Date), you have been awarded GRANTED restricted stock units which are convertible into GRANTED shares of Micron Technology, Inc. (the Company) Common Stock.

This Restricted Stock Unit Awarded is subject to the following:

1. The terms and conditions of the Restricted Stock Unit Award Agreement and
2. The terms and conditions of the 2004 Equity Incentive Plan.

Please review the Restricted Stock Unit Agreement and 2004 Equity Incentive Plan carefully, as they contain the terms and conditions which govern your Restricted Stock Unit Award. In addition, a Prospectus summarizing the Plan and the Insider Trading Calendar and Policy are available for your review.

Unless sooner vested in accordance with Section 3 of the Restricted Stock Unit Agreement or otherwise in the discretion of the Committee, the restrictions imposed under Section 2 of the Restricted Stock Unit Agreement will expire as to the following number of Units awarded hereunder, on the following respective dates; provided the Grantee is still employed by the Company of any Affiliate.

Restriction Lapse Schedule

Units	Vesting Date

Acknowledgement

Grantee hereby acknowledges that he/she has reviewed (i) the terms and conditions of the Restricted Stock Unit Agreement and (ii) 2004 Equity Incentive Plan and is familiar with the provisions thereof. Grantee acknowledges that a Prospectus relating to the Plan was made available for review. Grantee hereby accepts this Award subject to all the terms and provisions of the 2004 Equity Incentive Plan and Restricted Stock Unit Award.

Grantee acknowledges that the grant and acceptance of this Award do not constitute an employment agreement and do not assure continuous employment with Micron Technology, Inc., its affiliated companies, or subsidiaries.

Grantee authorizes Micron Technology, Inc. to release his/her Social Security Number or Global ID and address information to the Company's Broker who has agreed to provide brokerage service for 2004 Equity Incentive Plan participants for the purposes of opening an account under his/her name.

MICRON TECHNOLOGY, INC.
a Delaware Corporation

_____
Wilbur G. Stover, Jr.
Vice President of Finance & CFO

Signature: _____

Date:GRANT_DATE

Date: _____

RESTRICTED STOCK UNIT AGREEMENT - TERMS AND CONDITIONS

1. Grant of Units. The Company hereby grants to the Grantee named on page 1 hereof, subject to the restrictions and the terms and conditions set forth in the Plan and in this award certificate (this "Certificate"), the number of restricted stock units indicated on page 1 hereof (the "Units") which represent the right to receive an equal number of shares of the Company's $0.10 par value common stock ("Stock") on the terms set forth in this Certificate. Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Plan.

2. Vesting of Units. The Units have been credited to a bookkeeping account on behalf of Grantee. The Units will vest and become non-forfeitable on the earliest to occur of the following (the "Vesting Date"):

(a) as to the percentages of the Units specified on page 1 hereof, on the respective dates specified on page 1 hereof; provided Grantee is then still employed by the Company or any Affiliate or still serves as a director of the Company; or

(b) Termination of Grantee's service as a director of the Company or employment by the Company and all Affiliates by reason of death or Disability; or

(c) Upon the occurrence of a Change in Control.

If Grantee's employment terminates prior to the Vesting Date for any reason other than as described in (b) above, Grantee shall forfeit all right, title and interest in and to the Units as of the date of such termination and the Units will be reconveyed to the Company without further consideration or any act or action by Grantee. For purpose of Section 409A of the Code, any reference herein to Grantee's "termination of employment" shall be interpreted to mean Grantee's "separation from service" as defined in Code section 409A and Treasury regulations and guidance with respect to such law.

3. Conversion to Stock. Unless the Units are forfeited prior to the Vesting Date as provided in section 2 above, the Units will be converted to actual shares of Stock on the Vesting Date (the "Conversion Date"). Shares of Stock will be registered on the books of the Company in Grantee's name as of the Conversion Date. Stock certificates for the shares of Stock shall be delivered to Grantee upon request, but delivery may be postponed for such period as may be required for the Company with reasonable diligence to comply if deemed advisable by the Company, with registration requirements under the Securities Act of 1933, listing requirements under the rules of any stock exchange, and requirements under any other law or regulation applicable to the issuance or transfer of the Shares.

4. Dividend Equivalents. If and when dividends or other distributions are paid with respect to the Stock while the Units are outstanding, the dollar amount or fair market value of such dividends or distributions with respect to the number of shares of Stock then underlying the Units shall be paid to Grantee within 30 days after the payment date of such dividend or distribution to shareholders.

5. Changes in Capital Structure. In the event the Stock shall be changed into or exchanged for a different number or class of shares of stock or securities of the Company or of another company, whether through reorganization, recapitalization, statutory share exchange, reclassification, stock split-up, combination of shares, merger or consolidation, or otherwise, there shall be substituted for each share of Stock then underlying a Unit subject to this Certificate the number and class of shares into which each outstanding share of Stock shall be so exchanged.

6. Restrictions on Transfer. No right or interest of Grantee in the Units may be pledged, hypothecated or otherwise encumbered to or in favor of any party other than the Company or an Affiliate, or be subjected to any lien, obligation or liability of Grantee to any other party other than the Company or an Affiliate. Units are not assignable or transferable by Grantee other than by will or the laws of descent and distribution or pursuant to a domestic relations order that would satisfy Section 414(p)(1)(A) of the Code; but the Committee may permit other transfers in accordance with the Plan.

7. Limitation of Rights. The Units do not confer to Grantee or Grantee's beneficiary any rights of a stockholder of the Company unless and until shares of Stock are in fact issued to such person in connection with the Units. Nothing in this Certificate shall interfere with or limit in any way the right of the Company or any Affiliate to terminate Grantee's employment at any time, nor confer upon Grantee any right to continue in employment of the Company or any Affiliate. Grantee waives all and any rights to any compensation or damages for the termination of Grantee's office or employment with the Company or an Affiliate for any reason (including unlawful termination of employment) insofar as those rights arise from Grantee ceasing to have rights in relation to the Units as a result of that termination or from the loss or diminution in value of such rights. The grant of the Units does not give Grantee any right to participate in any future grants of share incentive awards in the future.

8. Payment of Taxes. Grantee will, no later than the date as of which any amount related to the Units first becomes includable in Grantee's gross income for federal income tax purposes, pay to the Company, or make other arrangements satisfactory to the Committee regarding payment of, any federal, state and local taxes of any kind (including Grantee's FICA obligation) required by law to be withheld with respect to such amount. The obligations of the Company under this Certificate will be conditional on such payment or arrangements, and the Company, and, where applicable, its Affiliates will, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to Grantee.

9. Amendment. The Committee may amend, modify or terminate this Certificate without approval of Grantee; provided, however, that such amendment, modification or termination shall not, without Grantee's consent, reduce or diminish the value of this award determined as if it had been fully vested (i.e., as if all restrictions on the Units hereunder had expired) on the date of such amendment or termination. Notwithstanding anything herein to the contrary, the Committee may, without Grantee's consent, amend or interpret this Certificate to the extent necessary to comply with Section 409A of the Code and Treasury regulations and guidance with respect to such law.

10. Plan Controls. The terms contained in the Plan shall be and are hereby incorporated into and made a part of this Certificate and this Certificate shall be governed by and construed in accordance with the Plan. In the event of any actual or alleged conflict between the provisions of the approved Plan and the provisions of this Certificate, the provisions of the Plan shall be controlling and determinative.

11. Notice. Notices hereunder must be in writing and either personally delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid. Notices to the Company must be addressed to Micron Technology, Inc., 8000 South Federal Way, Boise, Idaho 83706-9632; Attn: Secretary, or any other address designated by the Company in a written notice to Grantee. Notices to Grantee will be directed to the address of Grantee then currently on file with the Company, or at any other address given by Grantee in a written notice to the Company.
12 Data processing. By accepting the Units, Grantee gives explicit consent to the Company to process any such personal data and to transfer any such personal data outside the country in which the Grantee works or is employed, including to the United States, to transferees who shall include the Company and other persons who are designated by the Company to administer the Plan.

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

OMNIBUS AGREEMENT

BY AND BETWEEN

MICRON TECHNOLOGY, INC. AND INTEL CORPORATION

FEBRUARY 27, 2007

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OMNIBUS AGREEMENT

This **OMNIBUS AGREEMENT** (this "**Agreement**"), is made and entered into as of this 27th day of February, 2007, by and between Micron Technology, Inc., a Delaware corporation ("**Micron**"), and Intel Corporation, a Delaware corporation ("**Intel**") (Micron and Intel are each referred to individually as a "**Party**," and collectively as the "**Parties**").

RECITALS

A. Micron and Intel are parties to that certain Amended and Restated Limited Liability Company Operating Agreement of IM Flash Technologies, LLC, dated February 27, 2007 (the "**IMFT Agreement**").

B. Micron Singapore, a Wholly-Owned Subsidiary of Micron, and Intel Singapore, a Wholly-Owned Subsidiary of Intel, are parties to that certain Limited Liability Partnership Agreement of IM Flash Singapore, LLP, dated February 27, 2007 (the "**IMFS Agreement**").

C. Micron and Intel desire to establish certain terms and conditions pursuant to which Micron and Intel and their respective Relatives will cooperate with respect to their direct or indirect ownership of any Applicable Joint Venture.

D. Capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Appendix A to this Agreement. Capitalized terms followed by phrases such as "**under any Applicable Joint Venture Agreement**" or "**pursuant to any Applicable Joint Venture Agreement**" shall have the respective meanings ascribed to such terms under the appropriate Applicable Joint Venture Agreement. Capitalized terms with "**U.S.**" added at the beginning are references to such capitalized terms under the IMFT Agreement. Capitalized terms with "**Singapore**" added at the beginning are references to such capitalized terms under the IMFS Agreement. All references to "**Board of Managers**" of an Applicable Joint Venture shall mean, as appropriate, the board of managers, board of directors or similar governing body thereof, and all references to "**Members**" of an Applicable Joint Venture shall mean the members, partners, stockholders or similar equity owners thereof.

E. Whenever phrases such as "**the Party will not permit its Relatives to**," "**the Parties shall cause their respective Relatives to**" or other similar language requiring that a Party direct the actions of its Relatives, other than the U.S. Joint Venture Company, are used herein it shall be deemed to mean that such Party has caused or prohibited or will cause or prohibit such action by exercising its rights as a majority or sole shareholder of the Relative to call a meeting or request an action of the board of directors or other governing body of the Relative in order to cause or prohibit such Relative's action.

ARTICLE 1.
MANAGEMENT

1.1 Board of Managers. (A) The Parties shall cause each Applicable Joint Venture other than the U.S. Joint Venture Company to have a Board of Managers, which shall consist of eight (8) individuals or such other number as the Members under the Applicable Joint Venture Agreement may unanimously agree.

(B) Without the prior written consent of Intel, Micron will not, and will not permit its Relatives to, (i) appoint to the Board of Managers of an Applicable Joint Venture other than the U.S. Joint Venture Company more than one person who is also a member of the Board of Managers of the U.S. Joint Venture Company, or (ii) appoint to the Board of Managers of the U.S. Joint Venture Company more than one person who is also a member of the Board of Managers of any other Applicable Joint Venture; *provided, however*, that this restriction will not apply with respect to any such Applicable Joint Venture for which Micron Members are entitled to appoint all members of the Board of Managers. Without the prior written consent of Micron, Intel will not, and will not permit its Relatives to, (i) appoint to the Board of Managers of an Applicable Joint Venture other than the U.S. Joint Venture Company more than one person who is also a member of the Board of Managers of the U.S. Joint Venture Company, or (ii) appoint to the Board of Managers of the U.S. Joint Venture Company more than one person who is also a member of the Board of Managers of any other Applicable Joint Venture; *provided*, *however*, that this restriction will not apply with respect to any such Applicable Joint Venture for which Intel Members are entitled to appoint all members of the Board of Managers.

(C) Micron shall not, and shall not permit its Relatives to, and Intel shall not, and shall not permit its Relatives to, appoint the U.S. Micron Executive Officer or U.S. Intel Executive Officer, respectively, as one of its appointed Managers under any Applicable Joint Venture Agreement (other than the IMFT Agreement) if such person is a member of the Board of Managers of the U.S. Joint Venture Company. Micron and Intel shall not appoint any executive officer of an Applicable Joint Venture other than the U.S. Joint Venture Company to the Board of Managers of the U.S. Joint Venture Company.

1.2 Manufacturing Committee.

(A) Micron and Intel hereby establish a manufacturing committee (the "**Manufacturing Committee**") to, among other things, consult with the Members of each of the Applicable Joint Ventures regarding its output of Joint Venture Products. The membership, functions, objectives and procedures of the Manufacturing Committee are more fully set forth in Appendix B to this Agreement.

(B) The Manufacturing Committee shall have a planning subcommittee (the "**Planning Subcommittee**"). Micron and Intel shall, and shall cause their respective Relatives that are Members under any Applicable Joint Venture Agreement to, submit the reports and analysis produced by the manufacturing planning personnel of the Applicable Joint Ventures to the Planning Subcommittee. The Planning Subcommittee will formulate recommendations to be submitted to the Manufacturing Committee for approval and action. The membership, functions, objectives and procedures of the Planning Subcommittee are more fully set forth in Appendix B to this Agreement.

ARTICLE 2.
DEBT FINANCING

2.1 Waiver of Rights to Mandatory Member Debt Financing. The Parties hereby, and shall cause their respective Relatives to, (A) waive their respective rights to compel any Funding Member under any Applicable Joint Venture Agreement to provide Mandatory Member Debt Financing under Section 3.1 of any Applicable Joint Venture Agreement, (B) waive their respective rights to provide Mandatory Member Debt

Financing under Section 3.1 of any Applicable Joint Venture Agreement and (C) agree to cause each Applicable Joint Venture in which they are Members to waive its rights to compel any Funding Member under any Applicable Joint Venture Agreement to provide Mandatory Member Debt Financing under Section 3.1 of any Applicable Joint Venture Agreement, in each case other than with respect to the Next Eligible Fab.

2.2 Payment of Member Notes. Intel and Micron shall not allow their respective Relatives that are Members under any Applicable Joint Venture Agreement to elect to receive payments on any Member Notes under any Applicable Joint Venture Agreement held by such Relatives, unless the chief executive officer of Intel or Micron, as applicable, has authorized the receipt of such payments in writing.

ARTICLE 3.
PERMITTED TRANSFERS

3.1 Intel Majority Purchase Right. Intel shall not exercise, and shall prevent its Relatives from exercising, rights to purchase an additional Interest under any Applicable Joint Venture Agreement pursuant to Section 12.4(A) of any Applicable Joint Venture Agreement (the "**Majority Purchase Right**") unless Intel and its Relatives have the right to, and do, simultaneously exercise, and perform the obligations with respect to, the Majority Purchase Rights under Section 12.4(A) of each of the Applicable Joint Venture Agreements. Micron and Intel shall, and shall cause each of their Relatives to, effectuate the closing of all of the Majority Purchase Rights under the Applicable Joint Venture Agreements on the same date and time, at the same place and in the same manner.

3.2 Purchase of Remaining Interest. Micron and Intel shall not exercise, and shall not permit their respective Relatives to exercise, rights to purchase the remaining Interest under any Applicable Joint Venture Agreement pursuant to Section 12.5 of any Applicable Joint Venture Agreement (the "[***]**% Purchase Right**") unless Micron or Intel, as applicable, and their respective Relatives, as applicable, have the right to, and do, simultaneously exercise, and perform the obligations with respect to, the [***]% Purchase Rights under Section 12.5 of each of the Applicable Joint Venture Agreements. Micron and Intel, as applicable, shall, and shall cause each of their respective Relatives, as applicable, to, effectuate the closing of all of the [***]% Purchase Rights under the Applicable Joint Venture Agreements on the same date and time, at the same place and in the same manner.

3.3 Purchase of Interest to Effect a Change in Consolidating Member. If a Change in Consolidating Member under any Applicable Joint Venture Agreement occurs causing Intel to become the Consolidating Member under such Applicable Joint Venture Agreement, Intel shall, and shall cause all of its Relatives to, exercise, and perform their obligations with respect to, their respective purchase rights under Section 12.4(B) of each of the Applicable Joint Venture Agreements (other than those in which Intel or its Relative is already the Consolidating Member under such Applicable Joint Venture Agreement). If a Change in Consolidating Member under any Applicable Joint Venture Agreement occurs and Intel has exercised its rights in the immediately preceding sentence, Micron shall, and shall cause all of its Relatives to, consent to

the exercise of the purchase right set forth in Section 12.4(B) of each of the Applicable Joint Venture Agreements. Micron and Intel agree, and shall cause each of their Relatives, to effectuate the closing of all of the purchase rights under Section 12.4(B) of the Applicable Joint Venture Agreements on the same date and time, at the same place and in the same manner.

ARTICLE 4.
LIQUIDATING EVENTS AND TRIGGERING EVENTS

4.1 Optional Termination Rights. Micron and Intel shall not exercise, and shall not permit their respective Relatives to exercise, the right to cause a Liquidating Event or Triggering Event, as applicable, pursuant to Section 13.1(A)(11) under any Applicable Joint Venture Agreement, unless (A) a Liquidating Event or Triggering Event, as applicable, other than under Section 13.1(A)(11) has previously occurred under any Applicable Joint Venture Agreement, (B) otherwise permitted by Section 4.2 of this Agreement, or (C) any Applicable Joint Venture has otherwise dissolved or ceased to exist.

4.2 Metric Events. Upon the occurrence of any of the following events (each, a "**Metric Event**"), the electing Party and its respective Relatives may exercise their respective rights to cause a Liquidating Event or Triggering Event, as applicable, pursuant to Section 13.1(A)(11) under any Applicable Joint Venture Agreement:

(A) the election of a Party by written notice to the other Party upon the occurrence of a Balance Sheet Metric Event on or prior to the Transition Date; *provided, however*, that such notice shall be given not more than thirty (30) days after the receipt by the notifying Party and such notifying Party's Relatives from the Applicable Joint Ventures of financial reports indicating that such Balance Sheet Metric Event has occurred;

(B) the first day on which each of the following conditions is satisfied:

(1) an Initial Operating Metric Event has occurred on or prior to the Transition Date;

(2) either Party provides a written notice (the "**Election Notice**") to the other Party of its election to, or to cause its Relatives to, trigger a Liquidating Event or Triggering Event, as applicable, pursuant to Section 13.1(A)(11) under the Applicable Joint Venture Agreements unless there is a Subsequent Operating Metric Cure; *provided, however*, that:

(a) the Election Notice shall be given only after completion of [***] Fiscal Quarters after the Initial Operating Metric Event and only if a Subsequent Operating Metric Cure has not occurred by the end of such [***] Fiscal Quarters;

(b) such Election Notice shall be given not more than [***]after the later of (i) receipt by the notifying Party and such notifying Party's Relative from the Applicable Joint Ventures of financial reports for the [***] Fiscal Quarter after the Initial Operating Metric Event and (ii) the receipt by such

Party of notice from the U.S. Joint Venture Company or the other Party that the Transition Date has occurred; and

(c) a Party who has not remitted in full its [***] of any [***] Capital Contribution in accordance with Section 2.3(A) of the IMFT Agreement shall not be eligible to submit an Election Notice unless the other Party failed to contribute in full its [***] of that or any earlier [***] Capital Contribution under Section 2.3(A) of the IMFT Agreement;

(3) not less than [***] Fiscal Quarters after the Initial Operating Metric Event have been completed;

(4) there shall not have been a Subsequent Operating Metric Cure in any period of [***] Fiscal Quarters completed prior to the end of the U.S. Fiscal Quarter most recently completed prior to the date the Election Notice is given; *provided, however*, that if the Election Notice is given in the [***] Fiscal Quarter after the Initial Operating Metric Event, there shall not have been a Subsequent Operating Metric Cure in any period of [***] Fiscal Quarters completed prior to the end of, and including, such [***] Fiscal Quarter; and

(5) [***] shall have expired from the date the Election Notice was given; or

(C) the election of a Party by written notice to the other Party upon the occurrence of a Critical Deadlock, provided such notice is given not more than thirty (30) days after the later of the end of the [***] period described in subsection (B) of the definition of Critical Deadlock and the receipt by the electing Party and such electing Party's Relative from the Applicable Joint Ventures of financial reports indicating that no Subsequent Operating Metric Cure has occurred in the period of [***] Fiscal Quarters described in subsection (C) of the definition of Critical Deadlock.

For the purposes of this Section 4.2, the Parties shall, and shall cause each of their respective Relatives that are Members under any Applicable Joint Venture Agreement to, cause the Authorized Officers under any Applicable Joint Venture Agreement, or the Chief Executive Officer under any Applicable Joint Venture Agreement, or the Site Manager under any Applicable Joint Venture Agreement, as applicable, to keep or cause to be kept adequate books and records that would enable the Parties to determine, in combination with information from any other Applicable Joint Venture, whether any Metric Event has occurred in any relevant period.

4.3 [***]% Dissolution Rights. Micron and Intel shall not exercise, and shall prevent their respective Relatives from exercising, rights to wind up the affairs of any Applicable Joint Venture under any Applicable Joint Venture Agreement pursuant to Section 13.1(A)(3) of any Applicable Joint Venture Agreement (the "[***]**% Dissolution Right**") unless Micron or Intel, as applicable, and their respective Relatives, as applicable, have the right to, and do, simultaneously exercise the [***]% Dissolution Rights under Section 13.1(A)(3) of each of the Applicable Joint Venture Agreements.

ARTICLE 5.
PURCHASE OPTIONS; FAB ALLOCATION PROCESS

Intel and Micron hereby agree that upon the occurrence of any Liquidating Event or Triggering Event, as applicable, the Parties shall, and shall cause each of their respective Relatives to, cause each of the Applicable Joint Ventures to dispose of the Facilities owned or leased by any Applicable Joint Venture in accordance with the following Purchase Options and Fab allocation process.

5.1 Micron Purchase Option on [***].

(A) Within thirty (30) days after the [***]Determination Date, Micron may elect to purchase all, but not less than all, of either (i) the [***] or (ii) the equity interest in the [***] Facilities Company that owns or leases only the [***]. Micron's election to purchase (the "**Micron** [***] **Purchase Option**") shall be exercised by delivering a written notice (the "**Micron** [***] **Exercise Notice**") of such election to the other Party and the U.S. Joint Venture Company. The purchase price for, as applicable, either (x) the [***] or (y) the equity interest, purchased pursuant to the Micron [***] Purchase Option shall be the [***] Value of such [***] or the equity interest in the applicable [***] Facilities Company, respectively (excluding, for purposes of this determination, any value attributable to the [***]).

(B) In the event that Micron does not exercise the Micron [***] Purchase Option, or does not otherwise acquire the [***] pursuant to this Article 4, then Micron shall permit the [***] Joint Venture Company, or the purchaser of any such [***] in an auction contemplated by this Agreement or by Section 13.11 of the IMFT Agreement, as applicable, to have reasonable access to the Premises, for a reasonable period and on a reasonable basis, in order to remove such [***] from the Premises.

5.2 Intel Purchase Option.

(A) If a Liquidating Event or Triggering Event, as applicable, occurs before the [***] is an Operational Fab, then within thirty (30) days after the [***] Determination Date, Intel may, subject to Section 5.4(C), elect to purchase all, but not less than all, of either (i) the [***] and its Associated Assets or (ii) the equity interest in the [***] Facilities Company that owns or leases only the [***] and its Associated Assets, irrespective of whether the [***] is an Operational Fab and irrespective of whether any additional [***].

(B) If a Liquidating Event or Triggering Event, as applicable, occurs after the [***] is an Operational Fab but before the [***] is an Operational Fab (a "**Later Liquidating Event**"), then within thirty (30) days after the [***] Determination Date, Intel may [***], subject to Section 5.4(C), elect to purchase under this Section 5.2(B) all, but not less than all, of either (i) the [***] and its Associated Assets under the [***] Joint Venture Agreement or (ii) the equity interest in the [***] Joint Venture that owns or leases only the [***] and its Associated Assets.

(C) Intel shall exercise the purchase option contained in Sections 5.2(A) or 5.2(B) (in either case, an "**Intel Purchase Option**") by delivering, or causing its Relative, as appropriate, to deliver, a written notice (the "**Intel Exercise Notice**") of such election to the Applicable Joint Ventures and Micron. The purchase price for, as applicable, either (i) (a) the

[***] and its Associated Assets or (b) the [***] and its Associated Assets under the [***] Joint Venture Agreement or (ii) the equity interest in (a) the [***] Facilities Company that owns or leases only the [***] and its Associated Assets or (b) the [***] Joint Venture that owns or leases only the [***] and its Associated Assets, purchased pursuant to the Intel Purchase Option shall be the [***] Value under the [***] Joint Venture Agreement of such assets or equity, respectively.

5.3 Additional Micron Option.

(A) If a Later Liquidating Event occurs, then within thirty (30) days after the [***] Determination Date, Micron may, subject to Section 5.4(C), elect to purchase under this Section 5.3(A) all, but not less than all, of either (i) the [***] and its Associated Assets or (ii) the equity interest in the [***] Facilities Company that owns or leases only the [***] and its Associated Assets.

(B) Micron shall exercise the purchase option contained in Section 5.3(A) (the "**Micron Purchase Option**") by delivering a written notice (the "**Micron Exercise Notice**") of such election to the [***] Joint Venture Company and Intel. The purchase price for, as applicable, either (i) the [***] and its Associated Assets or (ii) the equity interest in the [***] Facilities Company that owns or leases only the [***] and its Associated Assets, purchased pursuant to the Micron Purchase Option shall be the [***] Value of such assets or equity, respectively.

5.4 Remaining Facilities Draft.

(A) Within fifteen (15) days (the "**Fab Draft Period**") after the expiration of the last to expire of the options set forth in Sections 5.1, 5.2 and 5.3 (to the extent such options are applicable), any Facility or the equity of any Facilities Company that owns or leases only a single Facility that is not the subject of a Micron [***] Exercise Notice, an Intel Exercise Notice or a Micron Exercise Notice (each such Facility, a "**Remaining Facility**") shall be offered to Intel or Micron or their respective Relatives that are Members under the Applicable Joint Venture Agreement, as appropriate, for purchase at their respective [***] Values under the Applicable Joint Venture Agreements in a draft (the "**Draft**") to be conducted under the following procedure; *provided*, *however*, that in the event there is only one Remaining Facility, such Remaining Facility shall be offered to Intel or Micron (or their respective Relatives that are Members under the Applicable Joint Venture Agreement) under Section 5.5, and the provisions of this Section 5.4 shall not apply to such Remaining Facility.

(B) Within fifteen (15) days after the commencement of the Fab Draft Period, the Parties will appoint an independent third party to administer the Draft (the "**Draft Administrator**"). If the Parties fail to mutually agree on the Draft Administrator within fifteen (15) days, Deloitte & Touche shall be appointed the Draft Administrator by written request of either Party. Within fifteen (15) days after the appointment of the Draft Administrator, each of the Parties or their respective Relatives that are Members under the Applicable Joint Venture Agreement, as appropriate, may submit a written bid to the Draft Administrator for the right to select the first Facility to be acquired in the Draft under this Section 5.4, unless the right to select the first Facility has been designated pursuant to Section 5.4(C) or either of the last two

sentences of this paragraph (B). Such bid shall be a binding, irrevocable offer to pay in cash to the Applicable Joint Ventures as a fee for participating in the Draft a sum specified by the bidding Party or such bidding Party's Relative in the bid for the right to select the first Facility in the Draft, such sum to be allocated among the Applicable Joint Ventures in proportion to the aggregate Capital Contribution Balances under the Applicable Joint Venture Agreement of all Members under the Applicable Joint Venture Agreement of the Applicable Joint Ventures. The Draft Administrator shall hold such bids in confidence until the earlier of receipt of bids from both Parties or their respective Relatives that are Members under the Applicable Joint Venture Agreement, as appropriate, and the end of such fifteen (15)-day period, whereupon the Draft Administrator shall announce to the Parties which Person submitted the highest bid on a timely basis in accordance with the provisions hereof (the "**First Drafter**"). The First Drafter shall pay the amount of its bid within ten (10) days thereafter by wire transfer of immediately available funds. If no bids are timely submitted in accordance with the provisions hereof, the Draft Administrator shall designate by lot the Party who shall become the First Drafter. Notwithstanding the foregoing, in the event of a Metric Event described in Section 4.2(C) after the fifth anniversary of the Effective Date, the Party or its Relative, as appropriate, who did not elect for the Critical Deadlock to be a Liquidating Event or Triggering Event, as applicable, shall be the First Drafter without any requirement to bid therefor. Notwithstanding the foregoing, if at the time of a Liquidating Event or Triggering Event, as applicable, a Party's Economic Interest is above [***] percent ([***]%), that Party or its Relative, as appropriate, will be the First Drafter without any requirement to bid therefor and will also get [***], with the other Party or its Relative, as appropriate, having the [***] and, notwithstanding anything to the contrary in Section 5.4(D), [***] between the Parties and their Relatives, as appropriate, [***] (for the Party whose Economic Interest is above [***] percent ([***]%)) to one (for the Party whose Economic Interest is below [***] percent ([***]%)) basis (except that, if there are only [***] Remaining Facilities after a [***], the [***] in that next [***] will be [***] to [***]).

(C) Notwithstanding anything to the contrary in Sections 5.2 and 5.3 and this Section 5.4, in the event of a Liquidating Event or Triggering Event, as applicable, described in Section 13.1(A)(7)(ii) under any Applicable Joint Venture Agreement, the Party or its Relative, as appropriate, electing under such Section to wind up the Applicable Joint Venture on the occurrence of a U.S. Member Change of Control or a Member Change of Control under such Applicable Joint Venture Agreement shall be the First Drafter (or may designate its Relative to be the First Drafter, if appropriate) without any requirement to bid therefor, Sections 5.2 and 5.3 shall not be effective, and the [***] and its Associated Assets and the [***] (if it is an Operational Fab) and its Associated Assets under the Applicable Joint Venture Agreement shall be deemed to be included in the Remaining Facilities for purposes of the draft contemplated by this Section 5.4.

(D) Within [***] ([***]) days after the date (the "**Draft Commencement Date**") on which the Draft Administrator announces the identity of the First Drafter, the First Drafter may (but shall not be obligated to) select for purchase a [***] or the equity of a Facilities Company that owns or leases [***] by written notice to the Applicable Joint Venture and the other Party (the "**Second Drafter**"). After such [***] ([***])-day period expires, but within [***] ([***]) days after the Draft Commencement Date, the Second Drafter may or may cause its Relative to, as appropriate, (but shall not be obligated to) select for purchase a [***] or the equity of a Facilities Company that owns or leases [***] (other than that selected previously by the First

Drafter) by written notice to the Applicable Joint Venture and the other Party. If there are [***] after the [***] selections by the First Drafter and the Second Drafter, then after such [***] ([***])-day period expires, but within [***] ([***]) days after the Draft Commencement Date, the First Drafter may or may cause its Relative to, as appropriate, (but shall not be obligated to) select for purchase a [***] or the equity of a Facilities Company that owns or leases only [***] in the Draft. After such [***] ([***])-day period expires, but within [***] ([***]) days after the Draft Commencement Date, the Second Drafter may or may cause its Relative to, as appropriate, (but shall not be obligated to) select for purchase a [***] or the equity of a Facilities Company that owns or leases [***] in the Draft. After the foregoing [***], the Draft shall [***] in the foregoing manner until (1) [***] in the Draft, (2) there [***], or (3) neither Party wishes to [***].

5.5 Auction of Single Remaining Facility. If (1) there is only a single Remaining Facility (and therefore no Draft has occurred) or (2) after the final round of picks in the Draft under Section 5.4(D) there remains without a pick only a single Remaining Facility, each Party may submit or may cause its Relatives to submit, as appropriate, an irrevocable, binding written offer (a "**Remaining Facility Purchase Offer**") to purchase the Remaining Facility or the equity of the Facilities Company that owns or leases only such Remaining Facility. Such offer shall be submitted to the Draft Administrator within thirty (30) days after the Draft Commencement Date (in the case of an auction under clause (1) above) or thirty (30) days after the last pick was permitted to be submitted in the Draft (in the case of an auction under clause (2) above). Immediately after the end of such thirty (30) day period, the Draft Administrator shall announce the winning bid.

5.6 Closing of Purchases. The closing of any purchase to be made under a Purchase Option shall each take place as soon as reasonably practicable (but in no event later than one-hundred twenty (120) calendar days) following the last to occur of the expiration of any of the Micron [***] Purchase Option, the Intel Purchase Option, the Micron Purchase Option or a Remaining Facility Purchase Offer, the completion of the Draft and the expiration of the thirty (30) day period contemplated by Section 5.5. The closing of any such Purchase Option shall take place at the principal office of the Applicable Joint Venture that owns or leases the relevant Facility, or at such other time and location as the Parties or their Relatives, as appropriate, may mutually determine. At the closing of the Purchase Options, the applicable assets, rights or equity interest, as applicable, shall be conveyed, assigned or otherwise transferred to the Party purchasing such assets, rights or equity (or such Party's designee), free and clear of any liens and encumbrances other than liens securing indebtedness exclusively associated with the applicable Fab, and each Party (or such Party's designee) shall pay the Applicable Joint Venture the purchase price for the assets, rights or equity it is purchasing from such Applicable Joint Ventures by wire transfer of immediately available funds and such Applicable Joint Venture shall deliver to each Party (or such Party's designee) such instrument(s) of conveyance as the purchasing Party (or such Party's designee) reasonably requests. For purposes hereof, the term "**Purchase Options**" shall mean any purchase made under Section 5.4 and the Micron [***] Purchase Option, the Intel Purchase Option, the Micron Purchase Option and any Remaining Facility Purchase Offer.

ARTICLE 6.
FORMATION OF ADDITIONAL ENTITIES

6.1 Formation of Foreign Facilities Company. The Parties anticipate that each new Facility that is to be developed by the Parties or any of their Affiliates and that is to be located outside the United States and outside of Singapore will be held in a separate entity (each, a "**Foreign Facilities Company**") as the Parties shall mutually determine in good faith. If the Parties fail to agree as to the type of entity that will act as a Foreign Facilities Company with respect to a Facility, then such Foreign Facilities Company shall be organized as an entity (1) that is formed under the laws of the jurisdiction in which the Facility is located, (2) that, to the extent permitted under the laws of such jurisdiction, shall be an "eligible entity" as defined in United States Treasury Regulation 301.7701-3(a), (3) that elects to be treated as a partnership for United States federal income tax purposes, (4) in which each Party's interest in such Foreign Facilities Company is owned by a direct or indirect Wholly-Owned Subsidiary of such Party (the "**Foreign Facilities Company Member**") formed in the jurisdiction in which the Foreign Facilities Company is formed (unless both Parties consent to have such interest owned by an entity formed in another jurisdiction), and (5) that will sell Joint Venture Product to the Foreign Facilities Company Members using pricing methodology and terms comparable to the pricing methodology and terms applicable to sales of Joint Venture Product by the U.S. Joint Venture Company to the U.S. Members. If the immediately preceding sentence applies to a Foreign Facilities Company, further transfers of Joint Venture Product between each Foreign Facilities Company Member and its Affiliates shall be structured in a manner that both Parties reasonably and in good faith agree will maximize in a commercially reasonable manner and without undue tax risk (including tax risks unrelated to the Foreign Facilities Company) the benefits of owning the applicable Facility in the jurisdiction in which the Foreign Facilities Company is formed. The Parties agree that the charter and other organizational documents of each Foreign Facilities Company and all contractual and other arrangements between any Applicable Joint Venture and such Foreign Facilities Company, and between the Parties or their Affiliates and such Foreign Facilities Company, shall have such terms and conditions as shall be necessary to achieve the purposes of the Parties in entering into this Agreement and the Applicable Joint Venture Agreements, viewed in the aggregate. The Parties further agree that the charter, organizational documents, contractual and other arrangements of the Foreign Facilities Company shall, [***], provide [***] (including with respect to [***])[***]; *provided*, *however*, that at the option of Intel, Intel may contribute additional funds to the capital of such Foreign Facilities Company so that Intel shall own [***]% and Micron [***]% of the shares or other ownership interests of such Foreign Facilities Company.

ARTICLE 7.
DEFAULT

7.1 Event of Default.

(A) An "**Event of Default**" shall occur if a Party (the "**Defaulting Party**") fails to perform any material obligation under this Agreement.

(B) Upon the occurrence of an Event of Default, the other Party (the "**Non-Defaulting Party**") shall have the right to deliver to the Defaulting Party notice (a "**Notice of**

Default"). The Notice of Default shall set forth the nature of the obligations that the Defaulting Party has failed to perform. If the Defaulting Party fails to cure the Event of Default within the Cure Period, the Non-Defaulting Party may take any of the actions set forth in Section 7.1(C). For purposes hereof, "**Cure Period**" means a period commencing on the date that the Notice of Default is provided by the Non-Defaulting Party and ending (i) thirty (30) days after Notice of Default is so provided, or (ii) in the case of any obligation (other than an obligation to pay money) which cannot reasonably be cured within such thirty (30) day period, such longer period not to exceed one hundred twenty (120) days after the Notice of Default as is necessary to effect a cure of the Event of Default, so long as the Defaulting Party diligently attempts to effect a cure throughout such period.

(C) Upon the occurrence of an Event of Default and the expiration of the Cure Period set forth in Section 7.1(B), the Non-Defaulting Party may pursue all legal and equitable rights and remedies against the Defaulting Party available to it (subject to any limitations in this Agreement). The Defaulting Party shall pay all costs, including attorneys' fees, incurred by the other Member in pursuing such legal remedies.

7.2 Specific Performance. The Parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the parties agree that any damages available at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the Parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate preliminary or permanent injunctive relief may be applied for and granted in connection therewith. Except as otherwise limited by this Agreement, such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a party may have under this Agreement; *provided*, *however*, that in no event shall a dissolution of an Applicable Joint Venture be permitted or occur as the result of a breach of this Agreement unless such dissolution is permitted under the terms and provisions of Section 13.1(A) of such Applicable Joint Venture Agreement.

ARTICLE 8.
MISCELLANEOUS PROVISIONS

8.1 Notices. All notices to any Applicable Joint Venture shall be sent addressed to the Authorized Officers under the Applicable Joint Venture Agreement, or the Chief Executive Officer under the Applicable Joint Venture Agreement, or the Site Manager under the Applicable Joint Venture Agreement, as applicable, at the Applicable Joint Venture's principal place of business. All notices to a Party shall be sent addressed to such Party at the address as may be specified by the Party from time to time in a notice to the other Party, *provided* that the initial notice address for each Party is as follows:

(A) if to Intel:

Intel Corporation
2200 Mission College Blvd.
Mailstop SC4-203
Santa Clara, CA 95054

Attention: General Counsel
Facsimile: (408) 653-8050

with a copy to:

Intel Corporation
2200 Mission College Blvd.
Mailstop RN6-46
Santa Clara, CA 95054
Attention: [***]
Facsimile: [***]

(B) if to Micron:

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

All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

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

8.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of each party hereto. Except as otherwise specifically provided in this Agreement, neither this Agreement nor any right or obligation hereunder may be assigned or delegated in whole or in part to any other Person.

8.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person other than the Parties any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

8.5 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

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

8.7 Entire Agreement. This Agreement, together with the Appendices, Exhibits and Schedules hereto and the agreements (including the Confidentiality Agreement) and instruments expressly provided for herein, constitute the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof.

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

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

8.10 Further Assurances. Each Party shall execute such deeds, assignments, endorsements, evidences of transfer and other instruments and documents and shall give such further assurances as shall be necessary to perform such Party's obligations hereunder. The obligations of the Parties set forth in this Section 8.10 shall survive the termination of this Agreement.

8.11 Consequential Damages. No Party shall be liable to any other Party under any legal theory for indirect, special, incidental, consequential or punitive damages, or any damages for loss of profits, revenue or business, even if such party has been advised of the possibility of such damages.

8.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court.

8.13 Confidential Information.

(A) The Parties shall abide by the terms of that certain Mutual Confidentiality Agreement between Micron, Intel and the U.S. Joint Venture Company dated as of the Effective Date, and as may be amended or replaced from time to time (the "**Confidentiality Agreement**"),

which agreement is incorporated herein by reference with respect to the Applicable Joint Ventures, their Subsidiaries and the Facilities Companies and the activities of the Applicable Joint Ventures, their Subsidiaries and the Facilities Companies. The Parties agree that the Confidentiality Agreement shall govern the confidentiality and non-disclosure obligations between the Parties respecting the information provided or disclosed pursuant to this Agreement as such information relates to the Applicable Joint Ventures, their Subsidiaries and the Facilities Companies and their activities.

(B) If the Confidentiality Agreement is terminated or expires and is not replaced, such Confidentiality Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the term of this Agreement or until a new Confidentiality Agreement is entered into between the Parties. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

(C) The terms and conditions of this Agreement shall be considered "**Confidential Information**" under the Confidentiality Agreement for which each of Micron and Intel is considered a "Receiving Party" under such Confidentiality Agreement.

8.14 Reimbursement of Singapore Joint Venture Company Start-Up Costs. The Parties shall cause their respective Relatives that are Singapore Members to cause the Singapore Joint Venture Company to reimburse the U.S. Joint Venture Company for all costs and expenses incurred by the U.S. Joint Venture Company in connection with the formation of the Singapore Joint Venture Company and the planning for and start-up of the [***].

8.15 Dispute Resolution.

(A) All disputes between the Parties over a purported breach of this Agreement (each, a "**Dispute**"), shall be resolved as follows: the Parties shall first submit the matter to the chief executive officers (or other senior executive officers) of each of the Parties by providing notice of the Dispute to the Parties. The chief executive officers (or other senior executives officers) shall then make a good faith effort to resolve the Dispute. If they are unable to resolve the Dispute within [***] of receiving notice of the Dispute (during which [***] period, the chief executive officers (or other senior executive officers) shall seek in good faith to hold at least [***] at which they shall make a good faith effort to resolve the Dispute), then a civil action with respect to the Dispute may be commenced, but only after the matter has been submitted to JAMS for mediation as contemplated by Section 8.15(B).

(B) If there is a Dispute, either Party may commence mediation by providing to JAMS and the other Party a written request for mediation, setting forth the subject of the Dispute and the relief requested. The Party will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in the scheduling the mediation proceedings. The Parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any

litigation or other proceeding involving the Parties, *provided* that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither Member may commence a civil action with respect to a Dispute until after the completion of the initial mediation session, or [***] after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the Parties so desire. The provisions of this Section may be enforced by any court of competent jurisdiction, and the Party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Party against whom enforcement is ordered.

8.16 Certain Matters.

(A) Intel Matter or Intel Singapore Matter. If a Deadlock occurs under any Applicable Joint Venture Agreement with respect to an Intel Matter or Intel Singapore Matter, the Parties shall, or shall cause their respective Relatives to, as applicable, resolve such Intel Matter or Intel Singapore Matter in the manner specified by the Authorized Representative of Intel or Intel Singapore, as applicable, *provided* that Intel and its Relatives have contributed [***] under all of the Applicable Joint Venture Agreements of [***] Capital Contributions under Article 2 of such Applicable Joint Venture Agreements prior to and including the date of such resolution.

(B) Micron Matter or Micron Singapore Matter. If a Deadlock occurs under any Applicable Joint Venture Agreement with respect to a Micron Matter or Micron Singapore Matter at any time [***], the Parties shall, or shall cause their respective Relatives to, as applicable, resolve such Micron Matter or Micron Singapore Matter in the manner specified by the Authorized Representative of Micron or Micron Singapore, as applicable, *provided* that Micron and its Relatives, have contributed [***] under all of the Applicable Joint Venture Agreements of [***] Capital Contributions under Article 2 of such Applicable Joint Venture Agreements prior to and including the date of such resolution (for purposes of this Section, a Shortfall Amount under any such Applicable Joint Venture Agreement caused by Micron or any of its Relatives, as appropriate, shall be deemed to have been contributed by Micron or its Relatives, as appropriate, if a Mandatory Shortfall Note under such Applicable Joint Venture Agreement in respect of such Shortfall Amount under the Applicable Joint Venture Agreement is outstanding and has been outstanding for less than eighteen (18) months). In no event shall Micron or Intel permit, or allow their respective Relatives to permit, the location selection or incentive negotiation with respect to the Next Eligible Fab to occur [***] without the unanimous approval of the Board of Managers of the Applicable Joint Venture under Section 6.3 of the Applicable Joint Venture Agreement.

8.17 Authorized Representatives and Senior Authorized Representatives.

(A) The Parties agree, and shall cause their respective Relatives to agree, that, for the purposes of Article 17 of any Applicable Joint Venture Agreement, the term "**Authorized Representative**" shall mean, with respect to any Intel Member, the general manager of Intel's

memory products group and, with respect to any Micron Member, the general manager of Micron's memory products group.

(B) The Parties agree, and shall cause their respective Relatives to agree, that, for the purposes of Article 17 of any Applicable Joint Venture Agreement, the term "**Senior Authorized Representative**" shall mean, with respect to any Intel Member, the principal executive officer of Intel and, with respect to any Micron Member, the principal executive officer of Micron.

8.18 Certain Interpretive Matters.

(A) Unless the context requires otherwise, (i) all references to Sections, Articles, Appendices or Schedules are to Sections, Articles, Appendices or Schedules of or to this Agreement, (ii) each of the Schedules will apply only to the corresponding Section or subsection of this Agreement, (iii) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, except as modified by the definition of "Modified GAAP," (iv) words in the singular include the plural and vice versa, (v) the term "**including**" means "including without limitation," and (vi) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. All references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**$**" or dollar amounts, or "**%**" or percent or percentages, shall be to precise amounts and not rounded up or down. All references to "**day**" or "**days**" will mean calendar days.

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

IN WITNESS WHEREOF, the undersigned being the Parties to this Omnibus Agreement have executed this Agreement as of the date and year first above written.

INTEL CORPORATION

By: _/s/ Ravi Jacob_____

Name: __Ravi Jacob_____

Title: Vice President FES, Treasurer

MICRON TECHNOLOGY, INC.

By: __/s/ W.G. Stover, Jr._____

Name: _W.G. Stover, Jr._____

Title: V.P. of Finance and CFO

THIS IS THE SIGNATURE PAGE FOR THE
OMNIBUS AGREEMENT
ENTERED INTO BY AND BETWEEN
INTEL CORPORATION AND MICRON TECHNOLOGY, INC.

APPENDIX A

DEFINITIONS

"[***]**% Dissolution Right**" shall have the meaning set forth in Section 4.3 of this Agreement.

"[***]**% Purchase Right**" shall have the meaning set forth in Section 3.2 of this Agreement.

"**Actual Performance Projection**" for an Applicable Joint Venture shall mean, with respect to either the number of [***] or [***] for any given [***] Fiscal Quarter, a projection thereof derived by [***], or the [***], such Applicable Joint Venture and its Subsidiaries for the most recent [***] (whether or not such [***] Fiscal Quarters are consecutive [***] Fiscal Quarters) in which there was not an Operating Metric Event; *provided*, *however*, that if, prior to such [***] Fiscal Quarter, [***], there [***] Actual Performance Projection and the provisions of paragraph (B)(1)(c) and (B)(2)(c) of the definition of Applicable Projection [***].

"**Affiliate**" means a 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 Applicable Projection**" means (i) with respect to a number of [***], the [***] of the Applicable Projections for all of the Applicable Joint Ventures and (ii) with respect to a [***], the [***] for all of the Applicable Joint Ventures.

"**Aggregate Committed Capital**" means, for a Party, on a given date, the sum of (1) the aggregate amount of the Committed Capital of such Party under all Applicable Joint Venture Agreements on such date, and (2) the aggregate amount of the Committed Capital of such Party's Relatives under all Applicable Joint Venture Agreements on such date.

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

"**Applicable Joint Venture**" or "**Applicable Joint Ventures**" means the entities listed on Schedule 1, as such Schedule may be amended from time to time by the unanimous written agreement of the Parties.

"**Applicable Joint Venture Agreements**" means the agreements listed on Schedule 1, as such Schedule may be amended from time to time by the unanimous written agreement of the Parties.

"**Applicable Law**" means any laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity (as defined under any Applicable Joint Venture Agreement).

"**Applicable Percentage**" shall be [***]% with respect to any [***] Fiscal Quarter ending on or prior to the Transition Date and [***]% thereafter.

"**Applicable Projection**" for an Applicable Joint Venture with respect to any [***] Fiscal Quarter means:

(A) if the Approved Business Plan under the Applicable Joint Venture Agreement for such Applicable Joint Venture for such [***] Fiscal Quarter is an Undisputed Approved Business Plan, the projection set forth in such Undisputed Approved Business Plan under such Applicable Joint Venture Agreement; and

(B) if the Approved Business Plan under the Applicable Joint Venture Agreement for such Applicable Joint Venture for such [***] Fiscal Quarter is a Disputed Approved Business Plan under such Applicable Joint Venture Agreement, the projection determined as follows:

(1) in the case of the projection of [***], the Applicable Projection shall be [***]:

(a) the [***] Undisputed Approved Business Plan under such Applicable Joint Venture Agreement (including, in the case of any [***] Fiscal Quarter [***]), if there is an Undisputed Approved Business Plan under such Applicable Joint Venture Agreement originally submitted for a prior year, but which included a projection that covered such [***] Fiscal Quarter,

(b) the [***] Disputed Approved Business Plan under such Applicable Joint Venture Agreement ([***]), and

(c) the [***]; *provided*, *however*, that this clause (c) shall not apply with respect to [***], if the U.S. Joint Venture Company and any of the Applicable Joint Ventures has [***] set forth in [***] prior to the date of determination and [***];

(2) in the case of the projection of [***], the Applicable Projection shall be [***]:

(a) the weighted average cost [***] Undisputed Approved Business Plan under such Applicable Joint Venture Agreement (including, in the case of any [***] Fiscal Quarter [***]), if there is an Undisputed Approved Business Plan under such Applicable Joint Venture Agreement originally submitted for a prior year, but which included a projection that covered such [***] Fiscal Quarter,

(b) the weighted average cost [***] Disputed Approved Business Plan under such Applicable Joint Venture Agreement ([***]), and

(c) the weighted average cost [***].

"**Associated Assets**" means, with respect to any Fab, the Joint Venture Equipment (as defined in the Applicable Joint Venture Agreement relating to such Fab), inventory and other tangible personal property owned by the Applicable Joint Venture or any of its Subsidiaries and located at that Fab on the date of the Liquidating Event or Triggering Event, as applicable, or thereafter and all rights and obligations pursuant to contracts, permits, governmental approvals

and governmental concessions and incentives associated with such Fab, Joint Venture Equipment (as defined in the Applicable Joint Venture Agreement relating to such Fab), inventory or other tangible personal property, including all liabilities exclusively associated with such Fab, except for assets sold or disposed of in any of the following transactions that occurs after the Liquidating Event or Triggering Event, as applicable: (a) the sale of inventory in the ordinary course; (b) the sale or other disposition of obsolete or surplus equipment or other assets to third parties in the ordinary course in arm's-length transactions; and (c) the sale of any other asset with the approval of the Board of Managers under the Applicable Joint Venture Agreement. Any transfer of Associated Assets under this Agreement shall include the assumption by the transferee of the liabilities exclusively associated with such Fab.

"**Authorized Representative**" shall have the meaning set forth in Section 8.17(A) of this Agreement.

"**Balance Sheet Metric Event**" means, with respect to any given U.S. Fiscal Quarter, the occurrence of either of the following:

(A) any event, circumstance or occurrence ([***]) that the Parties [***] and that is of [***] and that causes the [***] of the Applicable Joint Ventures and their Subsidiaries, determined in accordance with [***],[***], to [***] over such [***] Fiscal Quarter [***] (excluding any [***] to Members under any Applicable Joint Venture Agreement); or

(B) any event, circumstance or occurrence ([***]) that the Parties [***] and that is of [***] and that causes the [***] of the Applicable Joint Ventures and their Subsidiaries, [***],[***], to [***], as of the end of such [***] Fiscal Quarter, [***] the Applicable Joint Ventures and their Subsidiaries projected in the currently-effective Approved Business Plans under the Applicable Joint Venture Agreements (excluding [***]).

"**Boise Supply Agreement**" means that certain agreement, dated as of the Effective Date, between Micron and the U.S. Joint Venture Company to supply products to the U.S. Joint Venture Company.

"[***] **Determination Date**" shall mean the [***] Determination Date.

"[***] **Value**" means with respect to any asset, property or entity, the "[***] Value" as defined in the relevant Applicable Joint Venture Agreement.

"**Confidentiality Agreement**" shall have the meaning set forth in Section 8.13(A) of this Agreement.

"**Conforming Wafer**" means a NAND Flash Memory Wafer with greater than [***] percent ([***]%) functional die, or that is otherwise accepted by a Member.

"**Critical Deadlock**" means an Omnibus Agreement Deadlock about how to address the circumstances giving rise to an Initial Operating Metric Event or a Balance Sheet Metric Event, provided that:

(A) such Omnibus Agreement Deadlock (1) is not with respect to a Micron Matter or an Intel Matter, (2) is not with respect to a matter within the scope of the provisions of any of subsections (1) - (13) of Section 6.3(A), Section 6.3(B), Section 6.3(C) or Section 7.4 under any Applicable Joint Venture Agreement, and (3) does not relate to a proposal to require any Capital Contributions under any Applicable Joint Venture Agreement or Member Debt Financing under any Applicable Joint Venture Agreement;

(B) the Omnibus Agreement Deadlock about how to address the circumstances giving rise to such Initial Operating Metric Event or Balance Sheet Metric Event, as applicable, has not been resolved within [***] of the occurrence of such Omnibus Agreement Deadlock, as applicable; and

(C) with respect to an Omnibus Agreement Deadlock about how to address the circumstances giving rise to an Initial Operating Metric Event, there has not been a Subsequent Operating Metric Cure within the following [***] Fiscal Quarters after such Initial Operating Metric Event.

"**Cure Period**" shall have the meaning set forth in Section 7.1(B) of this Agreement.

"**Defaulting Party**" shall have the meaning set forth in Section 7.1(A) of this Agreement.

"**Dispute**" shall have the meaning set forth in Section 8.15(A) of this Agreement.

"**Dissolving Member Event**" shall mean any event, circumstance or occurrence, the proximate cause of which is an action taken by the Party (or a Relative or Affiliate of such Party) who has sent a notice pursuant to Section 4.2(A) or Section 4.2(C) that is sent after the occurrence of a Balance Sheet Metric Event. A Party shall not be deemed to have taken any action solely as a result of (a) the voting of the Managers under any Applicable Joint Venture Agreement appointed by such Party or such Party's Relatives to the Board of Managers or the members of any committee appointed by such Party or such Party's Relatives or (b) actions of any Seconded Employee under any Applicable Joint Venture Agreement, employee or officer of any Applicable Joint Venture (other than an action taken by any Seconded Employee under any Applicable Joint Venture Agreement at the specific direction of the Party or such Party's Relative that employs him or her).

"**Domestic Facilities Company**" means a U.S. Facilities Company or a Domestic Facilities Company under any Applicable Joint Venture Agreement.

"**Draft**" shall have the meaning set forth in Section 5.4(A) of this Agreement.

"**Draft Administrator**" shall have the meaning set forth in Section 5.4(B) of this Agreement.

"**Draft Commencement Date**" shall have the meaning set forth in Section 5.4(D) of this Agreement.

"**Economic Interest**" means, for each Party, a percentage determined from time to time by dividing the Aggregate Committed Capital of such Party at the time of determination by the Aggregate Committed Capital of all Parties at the time of determination.

"**Effective Date**" shall mean January 6, 2006.

"**Election Notice**" shall have the meaning set forth in Section 4.2(B)(2) of this Agreement.

"**Event of Default**" shall have the meaning set forth in Section 7.1(A) of this Agreement.

"**Fab**" means a "Fab" under any Applicable Joint Venture Agreement.

"**Fab Draft Period**" shall have the meaning set forth in Section 5.4(A) of this Agreement.

"**Facility**" means a Fab and its Associated Assets that are owned or leased by an Applicable Joint Venture or any Subsidiary of such Applicable Joint Venture.

"**Facilities Company**" means a Domestic Facilities Company or a Foreign Facilities Company.

"**First Drafter**" shall have the meaning set forth in Section 5.4(B) of this Agreement.

"**First Singapore Fab**" means the initial Fab that is, or is to be, located in Singapore and owned or leased by the Singapore Joint Venture Company as contemplated by the Singapore Initial Business Plan existing on the date of this Agreement.

"**Foreign Facilities Company**" shall have the meaning set forth in Section 6.1.

"**Foreign Facilities Company Member**" shall have the meaning set forth in Section 6.1.

"**GAAP**" means United States generally accepted accounting principles as in effect from time to time.

"**IMFS Agreement**" shall have the meaning set forth in the preamble of this Agreement.

"**IMFT Agreement**" shall have the meaning set forth in the preamble of this Agreement.

"Initial Operating Metric Event" means the occurrence of an Operating Metric Event during [***]. For purposes of this Agreement, any Initial Operating Metric Event shall be deemed to occur on the [***].

"**Intel**" shall have the meaning set forth in the preamble of this Agreement.

"**Intel Exercise Notice**" shall have the meaning set forth in Section 5.2(C) of this Agreement.

"**Intel Matter**" or "**Intel Singapore Matter**" means selecting the location for the [***] and negotiating all financial and property incentives with the applicable Governmental Authorities under the Applicable Joint Venture Agreement with respect to the [***].

"**Intel Member**" means Intel and any Relative of Intel that is a Member under any Applicable Joint Venture Agreement.

"**Intel Purchase Option**" shall have the meaning set forth in Section 5.2(C) of this Agreement.

"**Intel Singapore**" means Intel Technology Asia Pte Ltd, a private limited company organized under the laws of Singapore.

"**Joint Venture Products**" means "Joint Venture Products" under any Applicable Joint Venture Agreement.

"**Later Liquidating Event**" shall have the meaning set forth in Section 5.2(B) of this Agreement.

"**Lehi Fab**" means the Fab contemplated by the U.S. Initial Business Plan to be built out by the U.S. Joint Venture Company or one of its Subsidiaries at Lehi, Utah.

"**Liquidating Event**" means anything that is a "Liquidating Event" under any Applicable Joint Venture Agreement.

"**Majority Purchase Right**" shall have the meaning set forth in Section 3.1 of this Agreement.

"**Manufacturing Committee**" shall have the meaning set forth in Section 1.2(A) of this Agreement.

"**Master Agreement**" means that certain Master Agreement, by and between Intel and Micron, dated as of November 18, 2005.

"**Metric Event**" shall have the meaning set forth in Section 4.2 of this Agreement.

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

"**Micron Exercise Notice**" shall have the meaning set forth in Section 5.3(B) of this Agreement.

"**Micron Matter**" or "**Micron Singapore Matter**" means selecting the location for the Next Eligible Fab and negotiating all financial and property incentives with the applicable Governmental Authorities under the Applicable Joint Venture Agreement with respect to the Next Eligible Fab.

"**Micron Member**" means Micron or its Relative that is a Member under the Applicable Joint Venture Agreement.

"**Micron** [***] **Exercise Notice**" shall have the meaning set forth in Section 5.1A of this Agreement.

"**Micron** [***] **Purchase Option**" shall have the meaning set forth in Section 5.1A of this Agreement.

"**Micron Purchase Option**" shall have the meaning set forth in Section 5.3(B) of this Agreement.

"**Micron Singapore**" means Micron Semiconductor Asia Pte. Ltd., a private limited company organized under the laws of Singapore.

"**Modified GAAP**" means United States generally accepted accounting principles as in effect from time to time, except that: (i) stock-related expenses (including stock options, restricted stock, stock appreciation rights, restricted stock units, stock purchase programs or any award based on equity of Micron or Intel) associated with the seconded individuals to an Applicable Joint Venture will not be recorded or disclosed in the financial statements of such Applicable Joint Venture; and (ii) the value of any asset contributed or otherwise transferred to an Applicable Joint Venture from a Member under the Applicable Joint Venture Agreement shall be the value as agreed upon by the Members under such Applicable Joint Venture Agreement at the time of the contribution or transfer, as applicable, and, if such asset is to be depreciated or amortized under GAAP, the useful life and method of depreciation or amortization for such assets shall be determined by applying the accounting policies used by the Applicable Joint Venture for like assets.

"**MTV Assets**" means the Associated Assets at the Fab located at the [***].

"**MTV Lease**" shall have the meaning ascribed to such term in the Master Agreement.

"**NAND Flash Memory Wafer**" shall have the meaning set forth in the IMFT Agreement.

"[***]" means the first Fab that is, or is to be, owned or leased by an Applicable Joint Venture, any of its Subsidiaries or any Facilities Company that is not an Applicable Joint Venture other than the [***].

"**Non-Defaulting Party**" shall have the meaning set forth in Section 7.1(B) of this Agreement.

"**Notice of Default**" shall have the meaning set forth in Section 7.1(B) of this Agreement.

"**Omnibus Agreement Deadlock**" means the first day on which each of the following has occurred:

(A) One Party shall have delivered to the other Party a notice stating that it has determined that there exists a disagreement among the Parties or their respective Relatives that are Members of any Applicable Joint Venture, as applicable, regarding a proposal from one Party

or its Relative, as appropriate, about how to address the circumstances giving rise to an Initial Operating Metric Event or a Balance Sheet Metric Event (the "**Initial Deadlock**").

(B) For a period of [***] following the occurrence of an Initial Deadlock, the Parties shall, and shall cause their respective Relatives, as appropriate, to, seek in good faith to hold at least [***] at which they shall make a good faith effort to resolve the Initial Deadlock. To the extent practicable, the Parties shall, and shall cause their respective Relatives, as appropriate, to, seek to resolve the matter in a manner consistent with the Approved Business Plan of the relevant Applicable Joint Venture. The meetings shall be held at the time and place agreed to by the Parties, or if the Parties are unable to agree, at a time and place determined by the chief executive officers of the Parties on at least [***] written notice.

(C) There exists a disagreement among the Parties or their respective Relatives that are Members of any Applicable Joint Venture, as applicable, regarding resolution of the Initial Deadlock following the expiration of the [***] period provided for in paragraph (B).

"**Operating Metric Event**" means, with respect to any [***] Fiscal Quarter, the occurrence of either of the following:

(A) the [***] the Applicable Joint Ventures and their Subsidiaries in such [***] Fiscal Quarter is [***] the Applicable Percentage [***] in the Aggregate Applicable Projection for such [***] Fiscal Quarter; or

(B) the [***] the Applicable Joint Ventures and their Subsidiaries in such [***] Fiscal Quarter is [***] the Applicable Percentage [***] in the Aggregate Applicable Projection for such [***] Fiscal Quarter.

In comparing either the [***] or the [***] to the Aggregate Applicable Projection, as provided in subsections (A) and (B) above, [***] that are, or are to be, [***] the U.S. Joint Venture Company [***] shall be [***] (1) in [***] and (2) [***] the Aggregate Applicable Projection.

"**Operational Fab**" means a Fab that is an Operational Fab under any Applicable Joint Venture Agreement.

"**Party**" or "**Parties**" shall have the meaning set forth in the preamble of this Agreement.

"**Person**" or "**Persons**" means any natural person and any corporation, firm, partnership, trust, estate, limited liability company, or other entity resulting from any form of association.

"**Planning Subcommittee**" shall have the meaning set forth in Section 1.2(B) of this Agreement.

"**Premises**" shall have the meaning ascribed to such term in the [***].

"**Purchase Options**" shall have the meaning set forth in Section 5.6 of this Agreement.

"**Relative**" or "**Relatives**" means, with respect to each Party, the entities listed as such Member's Relatives on Schedule 2, as such Schedule may be amended from to time by (i) the unanimous written agreement of the Parties or (ii) as necessary to reflect any transferee in a Transfer under any Applicable Joint Venture Agreement permitted by and in accordance with Section 12.2 of any of the Applicable Joint Venture Agreements; *provided*, *however*, that no Applicable Joint Venture will be deemed to be a Relative of either Party and no Person shall be deemed to be a Relative of itself.

"**Remaining Facility**" shall have the meaning set forth in Section 5.4(A) of this Agreement.

"**Remaining Facility Purchase Offer**" shall have the meaning set forth in Section 5.5 of this Agreement.

"**Second Drafter**" shall have the meaning set forth in Section 5.4(D) of this Agreement.

"**Senior Authorized Representative**" shall have the meaning set forth in Section 8.17(B) of this Agreement.

"**Singapore Joint Venture Company**" means IM Flash Singapore, LLP.

"**Subsequent Operating Metric Cure**" means, with respect to any Initial Operating Metric Event, the [***] the Applicable Joint Ventures of [***] (a) which [***] at any [***], and (b) in which the Applicable Joint Ventures [***] Operating Metric Event (*i.e.* an Operating Metric Event described in subparagraph (A) of the definition of "Operating Metric Event" if the Initial Operating Metric Event occurred under subparagraph (A), and an Operating Metric Event described in subparagraph (B) thereof, if the Initial Operating Metric Event occurred under subparagraph (B)) in either of [***].

"**Subsidiary**" means as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"Transition Date" means the earlier of the [***] anniversary of the Effective Date and the date on which the [***] becomes an Operational Fab producing not less than [***] Wafer Starts per week.

"**Triggering Event**" means anything that is a Triggering Event under any Applicable Joint Venture Agreement.

"**U.S. Facilities Company**" shall have the meaning set forth in Section 16.1 of the IMFT Agreement.

"**Wafer**" means a silicon wafer.

"**Wafer Start**" means the initial Wafer introduction to a process flow. When the context requires reference to a quantity of "Wafer Starts," such term shall be expressed in 300 millimeter diameter equivalents.

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

APPENDIX B

MANUFACTURING COMMITTEE

Manufacturing Committee Charter

A Manufacturing Committee and Planning Subcommittee are formed by the Parties to perform certain consultative functions in relation to, and to formulate recommendations for the coordination of production among, the Applicable Joint Ventures and their Members, as more particularly set forth herein.

A. **Purpose and Functions of the Manufacturing Committee.**

The primary purpose of the Manufacturing Committee is to review certain proposed plans and actions and to formulate recommendations for the coordination of production among the Applicable Joint Ventures as specified herein. In addition, the Manufacturing Committee shall consult with the Members of the Applicable Joint Ventures concerning Product roadmap and loading, output and assembly and testing strategies. The Manufacturing Committee's functions shall include:

1. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the Applicable Joint Ventures, as appropriate, concerning the performance and projected performance of such Applicable Joint Venture against the Operating Plan under its Applicable Joint Venture Agreement and Performance Criteria (including projected cost, capacity, cycle-time, yield and quality) under such plan on a quarterly basis.

2. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the Applicable Joint Ventures, as appropriate, concerning proposed adjustments to the Probed Wafer Cost Forecast and the Projected Output Forecast, all as specified in the Approved Business Plan under any Applicable Joint Venture Agreement.

3. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the Applicable Joint Ventures, as appropriate, of such Applicable Joint Venture's monthly updates and reports of performance compared to the Operating Plan (including the Manufacturing Plan, Assembly Plan and Test Plan) under its Applicable Joint Venture Agreement and performance compared to the ramp plan.

4. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the Applicable Joint Ventures, as appropriate, concerning such Applicable Joint Venture's quarterly update of the Operating Plan under its Applicable Joint Venture Agreement and its Proposed Loading Plan.

5. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the Applicable Joint Ventures, as appropriate, concerning such Applicable Joint Venture's proposed Operating Plan (annually) under its Applicable Joint Venture Agreement, including but not limited to the Applicable Joint Venture's proposed operating and capital expenditure plan.

6. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the applicable Joint Ventures, as appropriate, concerning such Applicable Joint Venture's packaging, assembly and test strategy.

7. Review and consultation with the respective Members under each of the Applicable Joint Venture Agreements and the respective Board of Managers of the applicable Joint Ventures, as appropriate, concerning such Applicable Joint Venture's proposals for project related services and secondment.

8. Serve as an advice forum on best known methods and regarding manufacturing, assembly and testing process and operations, with the goal of improved production performance and ramp issue resolution.

9. Review the reports, analyses, summaries and recommendations of the Planning Subcommittee and perform such other duties with respect to the Planning Subcommittee as specified herein.

10. Such other functions as the Applicable Joint Venture and its Members may specify by written consent.

B. **Membership and Procedure**.

1. **Membership on Manufacturing Committee**.

a. Number and Appointment of Manufacturing Committee Members. The Manufacturing Committee shall have eight (8) voting members, or such other number as the Parties may specify by written consent, and, in addition, non-voting members consisting of the members of the Planning Subcommittee designated from time to time in accordance with Section D.1.a. of this Manufacturing Committee Charter. The voting members shall be the U.S. Intel Executive Officer and the U.S. Micron Executive Officer, if any, with the remaining voting members being appointed one-half by Micron and one-half by Intel. Unless the Parties otherwise specify, the voting members of the Manufacturing Committee appointed by each Party shall include:

1. A planning manager having factory tactical planning, loading and scheduling experience, including logistics;

2. A manufacturing finance officer or director or business officer; and

3. A director with manufacturing, strategic factory capacity, materials, purchasing and demand planning experience.

The qualifications of any individual appointed by Intel or Micron to serve on the Manufacturing Committee shall be determined in the discretion of Intel or Micron, respectively. The initial voting members appointed by Intel and Micron to the Manufacturing Committee shall be named within thirty (30) days of the Effective Date.

b. Removal and Vacancies. Each person having the right to appoint a member of the Manufacturing Committee in accordance with this Section shall also have the right, in its sole discretion, to remove such member at any time by delivery of written notice to the other person. Any vacancy on the Manufacturing Committee for any reason (including as a result of the death, resignation, retirement or removal pursuant to this Section of any member of the Manufacturing Committee) shall be filled by the person that appointed such member of the Manufacturing Committee. Unless a member of the Manufacturing Committee resigns, dies, retires or is removed in accordance with this Section, he or she shall hold office until a successor shall have been duly appointed by the appointing person.

2. **Additional Attendees at Manufacturing Committee Meetings**. The Chief Financial Officer and the Planning Manager of the Applicable Joint Ventures may attend meetings of the Manufacturing Committee, but shall not be deemed members of the Manufacturing Committee. In addition, the Manufacturing Committee may establish rules with respect to the attendance at the Manufacturing Committee meetings of staff and other invitees.

3. **Chairman of the Manufacturing Committee**. Intel and Micron acting together shall annually appoint the U.S. Intel Executive Officer or U.S. Micron Executive Officer, if any, or any other person on a rotating basis to serve as the chairman of the Manufacturing Committee (the "**Chairman**"). The Chairman shall preside at all meetings of the Manufacturing Committee and shall have such other duties and responsibilities as may be assigned to him or her by the Manufacturing Committee. The Chairman may delegate to the other executive officer, if any, authority to chair any meeting, either on a temporary or a permanent basis. The Chairman shall determine the agenda of each meeting of the Manufacturing Committee, but the other executive officer, if any, and any member of the Manufacturing Committee shall have the right to request that additional items be included in the agenda for any meeting and such items shall be included in the agenda and presented for discussion. The Chairman shall not have the power to end discussion on an agenda item, unless termination of the discussion is agreed to by a majority of the voting Committee members present at the meeting.

4. **Meetings of the Manufacturing Committee; Quorum; Voting**. The Manufacturing Committee shall hold meetings at least once per calendar quarter at such times and at such locations as the Manufacturing Committee may establish. The presence of the U.S. Intel Executive Officer and U.S. Micron Executive Officer, if any, and at least two (2) voting members of the Manufacturing Committee appointed by each of Intel and Micron, in person or by

telephone conference or by other means of communications acceptable to the Manufacturing Committee, shall be necessary and sufficient to constitute a quorum for the purpose of taking action at any meeting of the Manufacturing Committee. No action taken by the Manufacturing Committee at any meeting shall be valid unless the requisite quorum is present. An action of the Manufacturing Committee shall be effective only if approved by a majority of the voting members of the Manufacturing Committee present at the meetings who were appointed by Intel and by a majority of the voting members of the Manufacturing Committee present at the meetings who were appointed by Micron.

5. **Failure to Reach Agreement**.

a. If any Party determines that any matter described in Section A hereto has not been acted upon by the Manufacturing Committee with the result desired by such Party, then such Party may notify the other Party thereof and a Dispute under the Omnibus Agreement shall be deemed to have occurred with respect to such matter and the Manufacturing Committee shall proceed as specified in Section 8.15 of the Omnibus Agreement and as follows. The Manufacturing Committee shall then have a ten (10) day period during which it shall hold at least one (1) additional meeting at which it shall make a good faith effort to resolve the Dispute. The additional meetings shall be held at the time and place agreed to by the members of the Manufacturing Committee, or if the members are unable to agree, at a time and place determined by the Chairman of the Manufacturing Committee, on at least two (2) days' written notice.

b. If the Manufacturing Committee fails to resolve the Dispute during such ten (10) day period the matter shall then be resolved in accordance with Section 8.15 of the Omnibus Agreement.

6. **Notice; Waiver**. The regular meetings of the Manufacturing Committee shall be held upon not less than five (5) Business Days' written notice under the Omnibus Agreement. Additional meetings of the Manufacturing Committee shall be held (A) at such other times as may be determined by the Manufacturing Committee, (B) at the request of at least two (2) voting members of the Manufacturing Committee or the U.S. Intel Executive Officer or U.S. Micron Executive Officer, if any, upon not less than five (5) Business Days' written notice or (C) in accordance with Section 5, following a failure by the Manufacturing Committee to adopt or reject a proposal for action presented to it. For purposes of this Section, notice may be provided via facsimile, e-mail or any other manner provided in Section 8.1 of the Omnibus Agreement, or telephonic notice to each member of the Manufacturing Committee (which notice shall be provided to the other members of the Manufacturing Committee by the requesting members of the Manufacturing Committee). The presence of any member of the Manufacturing Committee at a meeting (including by means of telephone conference or other means of communications acceptable to the Manufacturing Committee) shall constitute a waiver of notice of the meeting with respect to such

member of the Manufacturing Committee, unless such member of the Manufacturing Committee declares at the meeting that such member of the Manufacturing Committee objects to the notice as having been improperly given.

7. **Action without a Meeting.** On any matter that is to be approved by the Manufacturing Committee, the Manufacturing Committee may take such action without a meeting, without prior notice and without approval if a consent or consents in writing, setting forth the action so taken, shall be signed by the voting members of the Manufacturing Committee that would be necessary to authorize or take such action at a meeting at which all the voting members of the Manufacturing Committee were present and voted.

8. **Meetings by Telecommunications.** Unless the Manufacturing Committee determines otherwise, members of the Manufacturing Committee shall have the right to participate in all meetings of the Manufacturing Committee by means of a telephone conference or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

9. **Compensation of Members of the Manufacturing Committee**. The members of the Manufacturing Committee, in their capacity as such, shall not receive compensation. Each Party shall bear the cost and expenses incurred by its appointed members of the Manufacturing Committee (acting in their capacity as members of the Manufacturing Committee).

C. **Purpose and Functions of the Planning Subcommittee.**

The primary purposes of the Planning Subcommittee are to review reports and analyses produced by the manufacturing planning personnel of the Applicable Joint Ventures and formulate recommendations for the coordination of production among the Applicable Joint Ventures to be submitted to the Manufacturing Committee for approval and action and to consult with the Manufacturing Committee and each of the Applicable Joint Ventures. The Planning Subcommittee's functions shall include:

1. Collecting data from Intel, Micron and each of the Applicable Joint Ventures;

2. Review and consultation with the Manufacturing Committee and the Applicable Joint Ventures concerning the objectives and functions of the Manufacturing Committee.

3. Develop and present recommendations to the Manufacturing Committee consistent with the objectives and functions of the Manufacturing Committee.

4. Such other functions as the Manufacturing Committee may specify.

D. **Membership and Procedure**.

1. **Membership on Planning Subcommittee**.

a. Number and Appointment of Planning Subcommittee Members. The Planning Subcommittee shall consist of the following members: one (1) individual who is not a voting member of the Manufacturing Committee appointed by each of Micron and Intel (the "**Party Representative**"); one (1) individual who is not a voting member of the Manufacturing Committee appointed together by Micron and Intel from the U.S. Joint Venture Company (the "**U.S. JV Representative**") and one (1) individual who is not a voting member of the Manufacturing Committee from each of the Applicable Joint Ventures other than the U.S. Joint Venture Company (the "**Applicable JV Representative**") that the Parties shall cause their respective Relatives that are Members under the Applicable Joint Venture Agreements, as appropriate, to appoint together.

The qualifications of an individual appointed to serve on the Planning Subcommittee shall be determined in the discretion of the person(s) appointing such individuals. The initial members of the Planning Subcommittee shall be named within thirty (30) days of the date of the Omnibus Agreement.

b. Removal and Vacancies. Each person having the right to appoint a member of the Planning Subcommittee in accordance with this Section shall also have the right, in its sole discretion, to remove such member at any time by delivery of written notice to the other person; *provided* that if such member is appointed jointly, then such member shall serve for a term of one calendar year and shall remain in office until removed by either person that appointed such member following the expiration of his or her term or until removed by both persons that appointed such member during his or her term. Any vacancy on the Planning Subcommittee for any reason (including as a result of the death, resignation, retirement or removal pursuant to this Section of any member of the Planning Subcommittee) shall be filled by the person that appointed such member of the Planning Subcommittee; *provided* that if such member was appointed jointly, then the vacancy must by filled by a new member appointed by both persons. Unless a member of the Planning Subcommittee resigns, dies, retires or is removed in accordance with this Section, he or she shall hold office until a successor shall have been duly appointed by the appointing person.

2. **Additional Attendees at Planning Subcommittee Meetings**. The Planning Subcommittee may establish rules with respect to the attendance at the Planning Subcommittee meetings of staff and other invitees, although any rules established by the Planning Subcommittee are subject to change by the Manufacturing Committee.

3. **Chairman of the Planning Subcommittee**. The Parties shall jointly appoint one (1) individual to be the "chair" of the Planning Subcommittee (the "**Subcommittee Chairman**"). The Subcommittee Chairman shall serve for a

term of one calendar year and shall remain in office until removed by either Party following the expiration of his or her term or until removed by both Parties during his or her term. Any vacancy in the office of the Subcommittee Chairman for any reason (including as a result of the death, resignation, retirement or removal of the Subcommittee Chairman pursuant to this Section) shall be filled by an individual jointly appointed by the Parties. The Subcommittee Chairman shall preside at all meetings of the Planning Subcommittee and shall have such other duties and responsibilities as may be assigned to him or her by the Planning Subcommittee. The Subcommittee Chairman may delegate to another individual appointed to the Planning Subcommittee authority to chair any meeting, either on a temporary or a permanent basis. The Subcommittee Chairman shall determine the agenda of each meeting of the Planning Subcommittee, but the Manufacturing Committee and any member of the Planning Subcommittee shall have the right to request that additional items be included in the agenda for any meeting and such items shall be included in the agenda and presented for discussion. The Subcommittee Chairman shall not have the power to end discussion on an agenda item, unless termination of the discussion is agreed to by a majority of the Planning Committee members present at the meeting.

4. **Voting**. With respect to any matters to be voted upon by the Planning Subcommittee, each of the Party Representatives shall have a number of votes equal to two times the number of U.S. JV Representative or Applicable JV Representatives on the Planning Subcommittee, or if there are no U.S. JV Representative and Applicable JV Representatives, each of the Party Representatives shall have one (1) vote. Each other member of the Planning Subcommittee shall have one (1) vote.

5. **Compensation of Members of the Planning Subcommittee**. The members of the Planning Subcommittee, in their capacity as such, shall not receive compensation. Each Party shall, and shall cause its respective Relatives that are Members under an Applicable Joint Venture Agreement to bear the cost and expenses incurred by its appointed members of the Planning Subcommittee; *provided* that if such member of the Planning Subcommittee has been appointed jointly by the Members under any Applicable Joint Venture Agreement, then Intel and Micron shall cause their respective Relatives that are Members under such Applicable Joint Venture Agreement to cause the costs and expenses incurred with respect to such jointly appointed member to be borne by the relevant Applicable Joint Venture

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

LIMITED LIABILITY PARTNERSHIP AGREEMENT

OF

IM FLASH SINGAPORE, LLP

BY AND BETWEEN

MICRON SEMICONDUCTOR ASIA PTE. LTD.

AND

INTEL TECHNOLOGY ASIA PTE LTD

FEBRUARY 27, 2007

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EXHIBITS

LIMITED LIABILITY PARTNERSHIP AGREEMENT

OF

IM FLASH SINGAPORE, LLP

This **LIMITED LIABILITY PARTNERSHIP AGREEMENT** (this "**Agreement**") of **IM Flash Singapore, LLP**, a limited liability partnership organized under the laws of Singapore (the "**Joint Venture Company**"), is made and entered into as of this 27th day of February, 2007 (the "**Effective Date**"), by and between Micron Semiconductor Asia Pte. Ltd., a private limited company organized under the laws of Singapore ("**Micron Singapore**"), and Intel Technology Asia Pte Ltd, a private limited company organized under the laws of Singapore ("**Intel Singapore**") (Micron Singapore and Intel Singapore are each referred to individually as a "**Member**," and collectively as the "**Members**"). Capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Appendix A to this Agreement or as otherwise provided in Section 18.14.

RECITALS

A. Micron Singapore and Intel Singapore registered the Joint Venture Company to engage in the activities set forth in Section 1.4 hereof.

B. Prior to or contemporaneously with the execution of this Agreement, the Joint Venture Company, Micron Singapore and Intel Singapore have each entered into the Joint Venture Documents to which they are a party.

ARTICLE 1.
ORGANIZATIONAL MATTERS

1.1 The Joint Venture Company. The Joint Venture Company is a limited liability partnership organized under the Limited Liability Partnership Act of 2005 (No. 5 of 2005) of Singapore, as amended from time to time (the "**Act**"), and governed by the terms and conditions set forth in this Agreement. The Joint Venture Company is a limited liability partnership as a result of the lodging by each of Micron Singapore and Intel Singapore of a statement in accordance with Section(15)(i) of the Act with the Registrar of Limited Liability Partnerships (the "**Registrar**") and the issuance of the notice of registration (the "**Certificate**").

1.2 Name. The name of the Joint Venture Company is "**IM Flash Singapore, LLP**."

1.3 Term. The initial term of the business of the Joint Venture Company shall continue until January 6, 2016, unless terminated prior to such date in accordance with this Agreement (the "**Initial Term**"). Such Initial Term may be extended by mutual written agreement of the Members at least [***] prior to the expiration of the Initial Term or any Renewal Term (any such extensions to be on such terms and for such period as set forth in writing and agreed to by the Members) (each such extended term, a "**Renewal Term**," and together with the Initial Term, the "**Term**").

1.4 Purpose of the Joint Venture Company; Business. The purpose of the Joint Venture Company shall be (A) to engage in the business of manufacturing for the Members NAND Flash Memory Products in various forms, including NAND Flash Memory Wafers, and such other forms of memory products as may be determined by the Board of Managers from time to time, and related memory product manufacturing development activities, (B) to enter into any other lawful business, purpose or activity in which a limited liability partnership may be engaged under Applicable Law (including the Act), as the Members may determine from time to time, subject to and in accordance with the terms and conditions of this Agreement, and (C) to enter into any lawful transaction and engage in any lawful activities in furtherance of the foregoing purposes and as may be necessary or incidental to, connected with or arising out of the foregoing purposes in accordance with the terms and conditions of this Agreement; *provided*, *however*, that a Member having an Economic Interest above [***] percent ([***]%) may, in its sole discretion, include the manufacture of other forms of memory products in the purpose of the Joint Venture Company (other than (i) [***] if such Member is Intel Singapore and (ii) Intel [***] if such Member is Micron Singapore), so long as the amount, delivery schedule, pricing and terms of the other Member's supply of Joint Venture Products remain as they existed immediately prior to the time at which the decision to include the manufacture of such other forms of memory products is made.

1.5 Principal Place of Business; Other Places of Business; Registered Office.

(A) The principal place of business and mailing address of the Joint Venture Company shall be IM Flash Singapore, LLP, c/o Allen & Gledhill, One Marina Boulevard #28-00, Singapore 018989, or such other address within Singapore as the Board of Managers may from time to time designate. The Board of Managers may change the principal place of business of the Joint Venture Company to such other place or places within Singapore as the Board of Managers may from time to time determine, in its sole and absolute discretion and, if necessary, the Board of Managers shall cause the Certificate to be amended in accordance with the applicable requirements of the Act to effectuate the change in the principal place of business.

(B) The Joint Venture Company may maintain other offices and places of business at such other place or places within or outside Singapore, and outside of the United States, as the Board of Managers may deem to be advisable.

(C) The registered office of the Joint Venture Company in Singapore shall be IM Flash Singapore, LLP, c/o Allen & Gledhill, One Marina Boulevard #28-00, Singapore 018989. The registered office may be changed from time to time by the Board of Managers, by causing the prescribed form, accompanied by the requisite filing fee, to be filed with the ACRA in accordance with the Act.

1.6 Intentionally Omitted.

1.7 Intentionally Omitted.

1.8 Supply Agreements. Contemporaneously with the execution of this Agreement, Intel Singapore and Micron Singapore have entered into the Supply Agreements with the Joint Venture Company pursuant to which, subject to the terms and conditions set forth in the

applicable Supply Agreement, each Member shall purchase from the Joint Venture Company, and the Joint Venture Company shall supply to each Member, a percentage of the Joint Venture Company's output of Products equal to such Member's Sharing Interest.

ARTICLE 2.
CAPITALIZATION

2.1 Initial Capital Contributions of the Members.

(A) Intel Singapore Initial Capital Contribution. The Members acknowledge and agree that, within three (3) Business Days of the Effective Date, Intel Singapore shall deliver to the Joint Venture Company all of the Intel Initial Contributed Assets, as identified on Appendix D.

(B) Micron Singapore Initial Capital Contribution. The Members acknowledge and agree that, within three (3) Business Days of the Effective Date, Micron Singapore shall deliver to the Joint Venture Company all of the Micron Initial Contributed Assets, as identified on Appendix D.

2.2 Initial Capital Contribution Reserve. The Joint Venture Company shall use all funds contributed as Initial Capital Contributions before permitting any Additional Capital Contributions. Moreover, the Initial Capital Contributions shall be transferred to a reserve account promptly after such funds are delivered to the Joint Venture Company. Such monies shall be invested in such investment or investments as the Board of Managers may hereafter designate. Such amounts shall be deemed to be necessary reserves for purposes of distributions under Section 5.1(A).

2.3 Additional Capital Contributions.

(A) [***] Capital Contributions. In addition to the Initial Capital Contributions, each Member shall make Capital Contributions to the Joint Venture Company equal to its [***] Capital Contributions; *provided*, *however*, that in no event shall (1) Intel Singapore be obligated to make [***] Capital Contributions in the aggregate in excess of the Intel Maximum Incremental Capital Amount, or (2) Micron Singapore be obligated to make [***] Capital Contributions in the aggregate in excess of the Micron Maximum Incremental Capital Amount. Such [***] Capital Contributions shall be made in quarterly installments on the twenty-fifth (25th) day of each Fiscal Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in amounts equal to the sum of (a) the amounts required for the remainder of the Fiscal Quarter in which the [***] Capital Contributions are made and (b) the amounts required for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution.

(B) [***] Capital Contributions. Except as mutually agreed in writing by both Members, each Member may, but shall not be required to, make Capital Contributions to the Joint Venture Company equal to its [***] Capital Contribution. Such [***] Capital Contributions shall be made in quarterly installments on the twenty-fifth (25th) day of each Fiscal

Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in an amount equal to the sum of (a) the amounts of the [***] Capital Contributions scheduled for the remainder of the Fiscal Quarter in which the [***] Capital Contributions are made and (b) the amounts of the [***] Capital Contributions scheduled for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution.

(C) Other Capital Contributions. Except as mutually agreed in writing by both Members, each Member may, but shall not be required to, make Capital Contributions (other than [***] Capital Contributions and [***] Capital Contributions) to the Joint Venture Company equal to its [***] as set forth in the Annual Budget included in the Approved Business Plan for the Fiscal Year in which the contributions are to be made. Any such Capital Contributions shall be made in quarterly installments on the twenty-fifth (25^{th}) day of each Fiscal Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in an amount equal to the sum of (a) the amounts of such Capital Contributions scheduled for the remainder of the Fiscal Quarter in which such Capital Contributions are made and (b) the amounts of such Capital Contributions scheduled for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution. Such contributed funds are hereinafter referred to as the "**Other Capital Contributions**" and, together with the [***] Capital Contributions and the [***] Capital Contributions, the "**Additional Capital Contributions**."

(D) No Other Contributions. Except as set forth in Sections 2.1 and 2.3(A), in the Joint Venture Documents and such other contributions as the Members may agree in writing shall be required, no Member shall be required to make any Capital Contributions to the Joint Venture Company, and, except as contemplated by Section 2.3(B), 2.3(C) and 2.4, in the Joint Venture Documents and such other contributions as the Members may agree in writing may be made (and except for Make-Up Contributions and any deemed contributions of amounts outstanding under Member Notes), no additional Capital Contribution to the Joint Venture Company shall be made by either Member without the consent of the other Member.

(E) Coordination. The Members shall coordinate with each other regarding, and provide each other with advance written notice of, the timing of their delivery of each Additional Capital Contribution.

(F) Partial Contributions. In the event that any Member determines to contribute less than its [***] of any Additional Capital Contribution, such Member shall provide notice of such determination specifying the amount of such Additional Capital Contribution it intends to make, if any. Such notice shall be provided to the Joint Venture Company and to the other Member as soon as practicable after such determination is made, but in any event not less than ten (10) Business Days prior to the date such Additional Capital Contribution is to be made. Any failure or delay in providing such notice shall not affect the right of any Member to refrain from providing such Additional Capital Contribution, nor shall it result in any liability for damages. Subject to Section 3.1, to the extent that a Member contributes less than its [***] of any Additional Capital Contribution for a given Fiscal Quarter, the other Member shall have the

right to reduce its contribution proportionately. In the event that such other Member has already remitted any amount in respect of its Additional Capital Contribution, the Joint Venture Company shall, upon such other Member's request and at its option, return such amount or deem all or a portion of such contribution to be Member Debt Financing hereunder. Any amount so requested to be returned or refunded shall be remitted to the requesting Member immediately by wire transfer of immediately available funds. The amount contributed for such Fiscal Quarter by the non-contributing Member (and the other Member, if its contribution is proportionately reduced) shall be applied in the following order:

(1) *First*, to satisfy the obligation of such Member to contribute its [***] of any [***] Capital Contribution for such Fiscal Quarter;

(2) *Second*, the remainder, if any, to fulfill the Member's [***] of the amount, if any, of any Other Capital Contribution for such Fiscal Quarter relating to an Operational Fab;

(3) Third, the remainder, if any, to fulfill the Member's [***] of the amount, if any, of any Other Capital Contribution for such Fiscal Quarter relating to matters not addressed in the immediately preceding clause (2); and

(4) Fourth, the remainder, if any, to fulfill the Member's [***] of any amount of the [***] Capital Contribution for such Fiscal Quarter to be applied to a [***] under the [***] Budget, and if there is [***] such [***], each of such [***] in the order in which they appear on the [***] Schedule.

(G) Priority of Contributions. Each Member shall contribute [***] of the cumulative aggregate [***] Capital Contributions theretofore due (and shall pay any interest accrued thereon at the rate provided in Section 2.4(A)(3) as a result of such Member's failure to make such contributions at the times and in the amounts required pursuant to Section 2.3(A)) other than any [***] Capital Contributions as to which the obligation to contribute has been terminated pursuant to Section 2.4(A)(2), before it may make any other Capital Contributions, including any [***] Capital Contributions (including by way of Make-Up Contributions), or any Other Capital Contribution or any Member Debt Financing; *provided, however*, that for purposes of this Section 2.3(G), a Member's [***] of an Additional Capital Contribution shall be deemed to exclude any shortfall of an [***] Capital Contribution (1) for which the Joint Venture Company, or the other Member acting on its behalf, has not demanded payment or pursued any claim for payment and (2) any portion of which the Member is restricted from contributing, or the Joint Venture Company is restricted from paying, under Article 2 or Article 3.

(H) Interim Loan. Each remittance of funds in respect of a Member's [***] of an Additional Capital Contribution pursuant to this Section 2.3 shall, upon receipt by the Joint Venture Company of such funds, be deemed to be a loan (which shall bear no interest) to the Joint Venture Company of the entire amount so delivered until the other Member remits funds in respect of its [***] of such Additional Capital Contribution. At such time:

(1) if both Members have remitted amounts equal to their respective [***]s of the Additional Capital Contribution in full, all such amounts shall be deemed

Additional Capital Contributions (whereupon the respective amounts remitted by the Members shall no longer be deemed loans and shall be added to the Members' respective Capital Contribution Balances);

(2) if there is a Shortfall Amount, the amount actually remitted by the Non-Funding Member shall be deemed an Additional Capital Contribution by such Member (and such amount shall no longer be deemed a loan and shall be added to the Non-Funding Member's Capital Contribution Balance), and a portion of the amount actually remitted by the Funding Member equal to the product of (a) the Funding Member's [***] of such Additional Capital Contribution (whether or not contributed in full) *multiplied* by (b) a fraction, the numerator of which is the amount actually remitted by the Non-Funding Member and the denominator of which is the Non-Funding Member's [***] of the Additional Capital Contribution shall be deemed an Additional Capital Contribution (and such amount shall be added to the Funding Member's Capital Contribution Balance). In such event, the remainder of the amount remitted by the Funding Member shall continue to be a loan to the Joint Venture Company until: (i) the return of all or a portion of such remaining funds upon the receipt by the Joint Venture Company of instructions from such Member to return all or a portion of such funds to the Member pursuant to Sections 2.3(F), 2.4(A)(1), 2.4(C) or 3.1(A); (ii) the Funding Member instructs the Joint Venture Company to deem all or a portion of such remaining funds an Additional Capital Contribution (whereupon all or such portion of such funds shall be added to the Member's Capital Contribution Balance); or (iii) the Funding Member instructs the Joint Venture Company to deem all or a portion of such funds to be Member Debt Financing; *provided* that if the Joint Venture Company has not received instructions pursuant to subparagraphs (i), (ii) or (iii) above within fifteen (15) days of the date the applicable Additional Capital Contribution was due, the Joint Venture Company shall contact such Member to request such instruction.

2.4 Shortfalls in Contributions.

(A) [***] Capital Contribution Shortfall.

(1) If a Member fails to remit in full its [***] Capital Contribution, at the time and in the amount required pursuant to Section 2.3(A), the other Member, if it has remitted its [***] of such [***] Capital Contribution, may, at its election, (a) require that the Joint Venture Company return the remitting Member's share of such [***] Capital Contribution to such remitting Member in part or in full, (b) make a Capital Contribution to the Joint Venture Company of any or all of the shortfall or (c) provide Optional [***] Financing in accordance with Section 3.2.

(2) To the extent the other Member elects to contribute or loan the shortfall under Section 2.4(A)(1)(b) or (c) above, such other Member may elect, by written notice to the Joint Venture Company and the non-contributing Member, to terminate the right and obligation of the non-contributing Member to contribute any unpaid portion of such non-contributing Member's [***] of the [***] Capital Contribution that the non-contributing Member failed to pay.

(3) The other Member, if it has remitted its [***] of the [***] Capital Contribution, may direct the Joint Venture Company under Section 7.5 to (or may, on behalf of the Joint Venture Company) demand payment and pursue a claim against the non-contributing Member for payment. The non-contributing Member shall be obligated to pay interest (which interest shall not be treated as a Capital Contribution) on such uncontributed amount at [***] (as in effect on the date such contribution was scheduled to be made and adjusted every [***]), compounded [***], from the date such [***] Capital Contribution is due until the date it is paid. The Member that did not make an [***] Capital Contribution it was required to make under the terms of this Agreement shall pay to the Joint Venture Company and the other Member all costs, including attorneys' fees, incurred by the Joint Venture Company and the other Member, respectively, in pursuing such claim for payment (which payments shall not be treated as Capital Contributions). Such Member shall not be liable for any additional damages. If the Joint Venture Company recovers against the non-contributing Member, the funds collected from the non-contributing Member shall be applied first to the payment in full of costs theretofore incurred by the Joint Venture Company or the other Member in the pursuit of the claim for payment against the non-contributing Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of the delinquent portion of the [***] Capital Contribution (and such amount shall be added to the Capital Contribution Balance of the non-contributing Member). In addition, upon such payment by the non-contributing Member, (a) if a related Optional [***] Shortfall Note is then outstanding, the provisions of Section 3.2(D) (subject to Section 3.2(E)) shall apply and (b) if no related Optional [***] Shortfall Note is then outstanding, but the other Member has remitted to the Joint Venture Company the amount that the non-contributing Member was required to make, then the Joint Venture Company shall immediately refund to the contributing Member an amount equal to the non-contributing Member's payment that was treated as a Capital Contribution, and the Capital Contribution Balance of the contributing Member shall be reduced by such amount.

(4) If, after a failure by a Member to timely make a Capital Contribution of its [***] of an [***] Capital Contribution that it was required to make under the terms of this Agreement, such Member wishes to make any payment with respect to such portion of the [***] Capital Contribution (and the ability to make such contribution has not been terminated pursuant to Section 2.4(A)(2)), the Joint Venture Company, with the consent of the other Member (which consent shall not be necessary if an action to collect such amount has been commenced by or at the direction of such other Member), shall accept such payment and apply it first to the payment in full of costs theretofore incurred by the Joint Venture Company or the other Member in the pursuit of a claim for payment against the non-contributing Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of the delinquent portion of the [***] Capital Contribution (and such amount shall be added to the Capital Contribution Balance of such Member). In addition, upon such payment by the non-contributing Member, (a) if a related Optional [***] Shortfall Note is then outstanding, the provisions of Section 3.2(D) (subject to Section 3.2(E)) shall apply

and (b) if no related Optional [***] Shortfall Note is then outstanding, but the other Member has remitted to the Joint Venture Company the amount that the non-contributing Member was required to make, then the Joint Venture Company shall immediately refund to the contributing Member an amount equal to the non-contributing Member's payment that was treated as a Capital Contribution, and the Capital Contribution Balance of the contributing Member shall be reduced by such amount.

(5) Notwithstanding any provision hereof to the contrary, the failure by a Member to contribute in [***] of any [***] Capital Contribution shall not constitute a Triggering Event.

(B) [***] Capital Contribution Shortfall. If a Member does not remit in [***] of any [***] Capital Contribution at the time and in the full amount permitted pursuant to Section 2.3(B), the provisions of Section 3.1 shall apply.

(C) Other Capital Contribution Shortfall. If a Member does not remit [***] of any Other Capital Contribution, at the time and in the full amount permitted pursuant to Section 2.3(C), the other Member, if it has remitted its [***] of such Other Capital Contribution may, at its election, (1) require that the Joint Venture Company [***] of such Other Capital Contribution to the remitting Member in part or in full, (2) make a [***] to the Joint Venture Company of any or all of the shortfall or (3) provide Optional Other Financing in accordance with Section 3.3.

2.5 Miscellaneous Capital Provisions.

(A) Capital Contributions shall be credited to the Capital Account of the contributing Member to the extent provided in Article 4 of this Agreement.

(B) No interest shall be paid to a Member on Capital Contributions. A Member shall not be entitled to withdraw any of its Capital Contributions except as provided in Section 2.3(F), 2.4 or Section 3.1.

(C) Except as otherwise provided in Article 13 or as otherwise agreed in writing by the Members, a Member receiving a return of all or any portion of its Capital Contribution shall have no right to receive a particular type of property or a particular asset.

(D) Any Capital Contributions to the Joint Venture Company to be made in cash shall be made by the Members by wire transfer of immediately available funds to the Joint Venture Company or its designated agent.

(E) Except as otherwise provided in Section 2.4 or Article 3 or for trade credit for services or goods provided by a Member to the Joint Venture Company under any Joint Venture Document or any other agreement that has been approved as required in this Agreement, no Member shall advance funds or make loans to the Joint Venture Company without the approval of the Board of Managers. Any such approved advances or loans by a Member shall not be Capital Contributions and shall not result in any increase in the amount of such Member's Capital Contribution Balance or entitle such Member to any increase in its Percentage Interest, except as otherwise provided in Section 2.4 or Article 3. The amount of such advances or loans

shall be a debt of the Joint Venture Company to such Member and (unless such loan is subject to a written guaranty or other written agreement governing the liability of another party with respect thereto) shall be payable or collectible only out of the assets of the Joint Venture Company.

(F) Except as provided in Section 5.2(C), the Joint Venture Company shall not make loans to, or guaranty any indebtedness of, any Member or any other Person other than a Domestic Facilities Company; *provided, however*, that the provisions of this Section 2.5(F) shall not prohibit the Joint Venture Company from providing payment terms to the Members for Joint Venture Products manufactured by the Joint Venture Company on behalf of the Members pursuant to any Joint Venture Document or any other agreement that has been approved as provided in this Agreement.

2.6 Contributions After a Change in Consolidating Member. Notwithstanding anything in this Article 2 to the contrary, following a Change in Consolidating Member:

(A) with respect to any Additional Capital Contribution, (1) the amount of the [***] Member's [***] that the [***] Member is required or permitted to make pursuant to this Article 2 shall be reduced to the amount that would not result in the occurrence of [***] Member or in the reduction of the [***] Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest, and (2) the [***] Member shall become entitled to contribute the [***] Contribution Amount; *provided, however*, that if the [***] Member fails to make such Additional Capital Contribution (or provide Member Debt Financing, if applicable) in an amount equal to the full [***] Contribution Amount then the limitations set forth in this Section 2.6(A) shall not apply with respect to such Additional Capital Contribution; and

(B) any payment by the Joint Venture Company to such [***] Member shall not equal or exceed the amount that would result in the occurrence of [***] Member or in the reduction of the [***] Member's Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest.

ARTICLE 3.
MEMBER DEBT FINANCING

3.1 Mandatory Member Debt Financing.

(A) This Section 3.1 shall apply if (1) there occurs a Shortfall Amount in respect of a [***] Capital Contribution pursuant to Section 2.4(B), (2) the Non-Funding Member has contributed its [***] of all previously required [***] Capital Contributions and (3) the other Member has become the "**Funding Member**" as a result of (a) such other Member's timely remittance of its [***] of such [***] Capital Contribution (after giving effect to the return of any amount so remitted which such Member requests or any increase in such amount contributed by such Member, up to its [***] of such [***] Capital Contribution, after receiving notice from the Joint Venture Company that the other Member has not timely delivered its [***] of the [***] Capital Contribution), or (b) if neither Member has timely remitted the amount of its [***] of such [***] Capital Contribution, such other Member's remittance of a greater percentage of its [***] of such [***] Capital Contribution than the other Member (after giving effect to the return

of any amount so remitted which such Member requests or any increase in such amount contributed by such Member, up to its [***] of such [***] Capital Contribution, after receiving notice from the Joint Venture Company that neither Member has timely delivered its [***] of the [***] Capital Contribution). In such event, the Funding Member shall (y) promptly provide Member Debt Financing to the Joint Venture Company in an amount equal to the Loan Amount and (z) the Funding Member Portion shall be deemed to have been provided as Member Debt Financing, rather than as a Capital Contribution, to the Joint Venture Company. However, if the Shortfall Amount is less than $[***], then the Funding Member may elect not to provide the Mandatory Member Debt Financing and, in such case, the Joint Venture Company shall return to each Member the portion of the [***] Capital Contribution actually remitted by such Member. Furthermore, a Funding Member shall not be required to provide Mandatory Member Debt Financing with respect to a [***] Capital Contribution under a [***] that is part of a Disputed Approved Business Plan proposed by the Non-Funding Member. No Funding Member shall be obligated to provide more than $[***] of Mandatory Member Debt Financing outstanding at any time (not including any Mandatory Equalization Note) with respect to Shortfall Amounts caused by a given Non-Funding Member.

(B) In exchange for the Mandatory Member Debt Financing, the Joint Venture Company shall issue to the Funding Member two convertible notes, one having a principal balance equal to the Loan Amount (the "**Mandatory Shortfall Note**"), and the other having a principal balance equal to the Funding Member Portion (the "**Mandatory Equalization Note**" and, together with the related Mandatory Shortfall Note, the "**Mandatory Notes**"), in the form attached hereto as Exhibit A.

(C) Each Mandatory Note issued in accordance with this Section 3.1 shall have [***] term, subject to Section 3.1(E). For the first [***] of the term of a Mandatory Shortfall Note, such Mandatory Shortfall Note shall bear interest at [***] (as in effect on the issue date (the "**Issuance Date**") thereof and adjusted every [***]),[***] basis points per annum, compounded [***]. Thereafter, until the end of the [***] term, such Mandatory Shortfall Note shall bear interest at [***], adjusted every [***], compounded [***]. No Mandatory Equalization Note shall [***].

(D) (1) At any time after the Issuance Date of a Mandatory Shortfall Note in accordance with this Section 3.1 and prior to the expiration of the [***] term of such Mandatory Shortfall Note, the Non-Funding Member may, upon three (3) Business Days' notice to the Joint Venture Company and the Funding Member, make one or more Make-Up Contributions to the Joint Venture Company in an aggregate amount up to the outstanding principal balance of the Mandatory Shortfall Note. Each Make-Up Contribution shall be accompanied by a payment equal to the accrued interest on the corresponding Mandatory Shortfall Note, which interest payment shall not be deemed to be a Capital Contribution. If the Make-Up Contribution is less than the entire amount of principal and accrued interest on a Mandatory Shortfall Note, the Make-Up Contribution shall be deemed to be a payment applied first to all accrued interest and then to principal on such Mandatory Shortfall Note (and the amount so treated as a payment with respect to accrued interest shall not be treated as a Capital Contribution). If a Member is the Non-Funding Member with respect to more than one Mandatory Shortfall Note outstanding at the time of such contribution, the Non-Funding Member shall specify the Mandatory Shortfall Note to which a Make-Up Contribution applies (or, if no such specification is made, the Make-

Up Contribution will be used to repay the Mandatory Shortfall Note that is closest to its maturity date). Upon receipt of such funds, the Joint Venture Company shall immediately repay to the Funding Member the portion of the outstanding principal balance of and accrued interest on the Mandatory Shortfall Note in an amount equal to the Make-Up Contribution plus any accrued interest on the amount of such Make-Up Contribution. At such time, the following shall occur: (a) the amount of the Make-Up Contribution equal to the principal balance of the Mandatory Shortfall Note so repaid shall be deemed to be a Capital Contribution by the Non-Funding Member and such amount shall be added to the Capital Contribution Balance of the Non-Funding Member; and (b) a percentage of the outstanding principal balance of the related Mandatory Equalization Note equal to the percentage of the principal balance of the Mandatory Shortfall Note repaid shall convert into a Capital Contribution by the Funding Member, whereupon such amount shall be added to the Capital Contribution Balance of the Funding Member.

(2) To the extent excess cash is available in accordance with Section 5.1 at any time to make payments on any Mandatory Notes, if the Funding Member elects, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distributions under Section 5.1, to receive such payments, the Joint Venture Company shall make payments on the outstanding principal of and accrued interest on the Mandatory Shortfall Notes (with any such payment being applied first to the payment in full of accrued interest and then, to the extent of any remaining amount of such payment, to the repayment of principal) and the outstanding principal of the Mandatory Equalization Notes; *provided*, *however*, that any payment by the Joint Venture Company on the unpaid principal of a Mandatory Shortfall Note must be accompanied by a payment by the Joint Venture Company of an equal percentage of the unpaid principal of the related Mandatory Equalization Note. Upon the Funding Member's receipt of funds from the Joint Venture Company to be applied to the repayment of principal on the Mandatory Notes, the principal portions of the Mandatory Notes that were so repaid by the Joint Venture Company shall no longer be outstanding.

(E) To the extent any amount of a Mandatory Shortfall Note remains outstanding upon its maturity for any reason, the Funding Member shall elect to do one of the following: (1) transfer to the Joint Venture Company as a Capital Contribution all or a portion of the obligations owing to the Funding Member for (a) the unpaid principal of and accrued interest on the Mandatory Shortfall Note and (b) the unpaid principal of the Mandatory Equalization Note, whereupon an amount equal to the sum of (a) and (b) shall be added to the Capital Contribution Balance of the Funding Member; or (2) permit the Mandatory Notes to become a continuing note that will remain outstanding, have a principal amount equal to the sum of (a) the principal of and accrued interest on the former Mandatory Shortfall Note and (b) the principal of the former Mandatory Equalization Note and be convertible at any time thereafter at the option of the Funding Member (a "**Continuing Mandatory Note**"), which Continuing Mandatory Note shall bear no interest and shall mature on the Liquidation Date. In the event that the Funding Member fails to make an election, the Funding Member shall be deemed to have elected to permit the Mandatory Notes to become a Continuing Mandatory Note. Upon conversion of a Continuing Mandatory Note by the Funding Member, the amount of principal of such Continuing Mandatory Note shall be added to the Capital Contribution Balance of the Funding Member. To the extent excess cash is available in accordance with Section 5.1 at any time to

make payments on any Continuing Mandatory Note, if the Funding Member elects to receive such payments, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distributions under Section 5.1, the Joint Venture Company shall make such payments on the outstanding principal of the Continuing Mandatory Note. Upon the Funding Member's receipt of funds from the Joint Venture Company, the portion of the Continuing Mandatory Note that was paid by the Joint Venture Company shall no longer be outstanding.

3.2 Optional [***] Financing.

(A) In the event of a Shortfall Amount in respect of an [***] Capital Contribution, the Funding Member may, in its sole discretion, elect to extend Member Debt Financing to the Joint Venture Company (the "**Optional [***] Financing**") consisting of all or a portion of the Shortfall Amount and the related Funding Member Portion of such [***] Capital Contribution (the aggregate amount so loaned, the "**Optional [***] Loan Amount**").

(B) In exchange for the Optional [***] Financing, the Joint Venture Company shall issue to the Funding Member two convertible notes, one having a principal amount equal to the amount loaned by the Funding Member in respect of the Shortfall Amount (the "**Optional [***] Shortfall Note**") and the other having a principal amount equal to the Funding Member Portion (the "**Optional [***] Equalization Note**" and, together with the related Optional [***] Shortfall Note, the "**Optional [***] Notes**"), in the form attached hereto as Exhibit B.

(C) The Optional [***] Shortfall Notes issued in accordance with this Section 3.2 will mature on the [***] and shall bear interest at [***] (as in effect on the Issuance Date thereof and adjusted every [***]), compounded [***]. The Optional [***] Equalization Notes issued in accordance with this Section 3.2 shall bear no interest and will mature on the [***]. The Optional [***] Notes shall be convertible at any time. Upon conversion of the Optional [***] Notes by the Funding Member, the sum of (a) the unpaid principal of and accrued interest on the Optional [***] Shortfall Note and (b) the unpaid principal of the Optional [***] Equalization Note shall be added to the Capital Contribution Balance of the Funding Member.

(D) If the Joint Venture Company or the Funding Member, on the Joint Venture Company's behalf, demands payment and determines to pursue a collection action with respect to the Non-Funding Member's failure to deliver the Shortfall Amount relating to the [***] Capital Contribution and the Joint Venture Company recovers from the Non-Funding Member, the funds collected from the Non-Funding Member shall be applied first to the payment to the Joint Venture Company and the Funding Member, in full of the costs theretofore incurred by the Joint Venture Company or the Funding Member, respectively, in the pursuit of the claim for payment against the Non-Funding Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of an Optional [***] Shortfall Note to the extent funds are available. At such time, the following shall occur: (1) a portion of the Make-Up Contribution recovered from the Non-Funding Member equal to the principal balance of the Optional [***] Shortfall Note so repaid shall be deemed to be a Capital Contribution by the Non-Funding Member, and such amount shall be added to the Capital Contribution Balance of the Non-Funding Member and (2) a percentage of the outstanding

principal balance of the related Optional [***] Equalization Note equal to the percentage of the principal balance of the Optional [***] Shortfall Note repaid shall convert into a Capital Contribution by the Funding Member, and such amount shall be added to the Capital Contribution Balance of the Funding Member.

(E) To the extent excess cash is available in accordance with Section 5.1 at any time to make payments on any Optional [***] Notes, if the Funding Member elects to receive such payments, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distribution under Section 5.1, the Joint Venture Company shall make payments on the outstanding principal of and accrued interest on the Optional [***] Shortfall Notes (with any such payment being applied first to the payment in full of accrued interest and then, to the extent of any remaining amount of such payment, to the repayment of principal) and the outstanding principal of the Optional [***] Equalization Notes; *provided, however*, that any payment by the Joint Venture Company on the unpaid principal on an Optional [***] Shortfall Note must be accompanied by a payment by the Joint Venture Company of an equal percentage of the unpaid principal of the related Optional [***] Equalization Note. Upon the Funding Member's receipt of funds from the Joint Venture Company, the portion of the Optional [***] Shortfall Note and related Optional [***] Equalization Note that was paid by the Joint Venture Company shall no longer be outstanding.

3.3 Optional Other Member Debt Financing.

(A) In the event of a Shortfall Amount in respect of an Other Capital Contribution, the Funding Member may, in its sole discretion, elect to extend Member Debt Financing to the Joint Venture Company (the "**Optional Other Financing**"), consisting of all or a portion of the Shortfall Amount and the related Funding Member Portion of such Other Capital Contribution.

(B) In exchange for the Optional Other Financing, the Joint Venture Company shall issue to the Funding Member a convertible note (the "**Optional Other Shortfall Note**"), in the form attached hereto as Exhibit C. The Optional Other Shortfall Note shall bear [***] interest, shall mature on the [***] and shall be convertible at any time.

3.4 Change In Committed Capital. Each time there is a change in a Member's Committed Capital, as a result of the making of a Capital Contribution or a loan evidenced by a Member Note, a payment on a Member Note, or otherwise, each Member's respective Percentage Interest, Economic Interest and Sharing Interest shall be immediately recalculated in accordance with the definitions of such terms, taking into account any delay provided for in the definition of Sharing Interest; *provided, however*, that in accordance with Section 2.3(H) an adjustment to the Percentage Interests of the Members relating to any funds remitted in respect of an Additional Capital Contribution to be made pursuant to Article 2 shall be made when contemplated by Section 2.3(H).

3.5 Change in Consolidating Member. Following a Change in Consolidating Member (as a result of which the Non-Funding Member becomes the Former Consolidating Member), any (A) Make-Up Contribution made by the Non-Funding Member to the Joint Venture Company or (B) payment on a Member Note by the Joint Venture Company from excess funds

available in accordance with Section 5.1 shall not equal or exceed the amount that would result in the occurrence of another Change in Consolidating Member or in the reduction of the Consolidating Member's Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest.

3.6 Loans Through Subsidiary. Notwithstanding any provision of this Article 3, in lieu of providing any Member Debt Financing permitted or required of a Member, (A) Intel Singapore may elect to provide such Member Debt Financing through Intel or a Wholly-Owned Subsidiary of Intel and (B) Micron Singapore may elect to provide such Member Debt Financing through Micron or a Wholly-Owned Subsidiary of Micron; *provided*, *however*, that the Member, rather than such Affiliate of the Member, shall own the Economic Interest, Sharing Interest and Committed Capital related to such Member Debt Financing and shall have all rights against the Joint Venture Company related to such Member Debt Financing.

ARTICLE 4.
CAPITAL ACCOUNTS AND ALLOCATIONS

4.1 Capital Accounts. Each Member shall have a capital account maintained in accordance with the terms of Article 2 of Appendix B to this Agreement (a "**Capital Account**").

4.2 Allocations of Book Income and Loss. Book income and Book loss for any Fiscal Year shall be allocated to the Members in the manner provided in Article 3 of Appendix B.

4.3 Tax Allocations. All items of income, gain, loss, and deduction shall be allocated among the Members for federal income tax purposes in the manner provided in Article 4 of Appendix B.

4.4 Restoration of Negative Balances. No Member with a deficit balance in its Capital Account shall have any obligation to the Joint Venture Company, to any other Member or to any third party to restore or repay said deficit balance. This Section 4.4 shall not affect any of the other rights or obligations of the Members under this Agreement or any other agreement.

ARTICLE 5.
DISTRIBUTIONS

5.1 Distributions.

(A) Unless otherwise unanimously agreed in writing by the Members, the Joint Venture Company shall not make any distributions until after the first anniversary of the Effective Date. Thereafter, subject to Articles 6, 7 and 13 and the provisions of the Act and after giving effect to all Capital Contributions or Member Debt Financing to be made on the same date under Article 2 and Article 3, respectively, the Joint Venture Company shall, subject to Section 5.1(C), make distributions of cash to the Members as set forth in this Section 5.1(A), on a [***] basis on the [***] day of each Fiscal [***] (or if such day is not a Business Day, then on the first Business Day after such day) to the extent that the Joint Venture Company's cash as of the end of the immediately preceding Fiscal [***] is in excess of the sum of (y) any amounts that have been contributed as a Capital Contribution or loaned to the Joint Venture Company as Member Debt Financing and that are being held for the purpose of making capital or operating

expenditures in the current Fiscal [***] or the first twenty-five (25) days of the immediately succeeding Fiscal [***] (or if such day is not a Business Day, then on the first Business Day after such day) and (z) all reserves that are considered reasonably necessary by the Board of Managers to pay other expenditures that are reasonably likely to be payable in the period described in clause (y) above, and in any event including the reserve established under Section 2.2 and amounts remaining in the Accumulated Distributions Accounts; *provided*, *however*, that the Board of Managers shall cause the Joint Venture Company to use any cash available for distribution as follows:

(1) *first*, to pay in full all amounts outstanding under any outstanding Mandatory Shortfall Notes and related Mandatory Equalization Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1) in order of their respective maturity dates;

(2) *second*, to pay any outstanding Continuing Mandatory Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1) in the order that the respective maturity dates of the related Mandatory Shortfall Notes and Mandatory Equalization Notes occurred;

(3) *third*, to pay in full all amounts outstanding under any other outstanding Member Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1);

(4) *fourth*, to make a distribution to a Member whose aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3)) immediately prior to such distribution are less than the amount equal to the Member's Sharing Interest (as such Sharing Interest is determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)) multiplied by the aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3)) of the Joint Venture Company immediately prior to such distribution, until such Member's aggregate, cumulative distributions (not including payments made pursuant to Sections 5.1(A)(1), (2) and (3), but including such distribution pursuant to this Section 5.1(A)(4)) are equal to its Distribution Entitlement; and

(5) finally, to make distributions *pro rata* to the Members in accordance with their respective Sharing Interests (as such Sharing Interests are determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)).

(B) Distributions of cash are only to be made to the extent cash is available to the Joint Venture Company without requiring (1) the sale of Joint Venture Company assets (other than in the ordinary course of business) or the pledge of Joint Venture Company assets at a time or on terms that the Board of Managers believes are not in the best interests of the Joint Venture Company or (2) a reduction in reserves that the Board of Managers believes are

reasonably necessary for Joint Venture Company purposes for the then-current Fiscal [***] and the first twenty-five (25) days of the immediately succeeding Fiscal [***] (or if such day is not a Business Day, then through the first Business Day after such day).

(C) The Joint Venture Company shall maintain in its books of account for each Member a special purpose account (the "**Accumulated Distributions Accounts**") for purposes of recording amounts that would be distributed to such Member under Section 5.1(A) but for the application of this Section 5.1(C). Notwithstanding anything to the contrary in this Section 5.1, in lieu of actually making the cash distributions contemplated by this Section 5.1, the Joint Venture Company shall (except to the extent a Member requests direct payment to the Member) increase each Member's Accumulated Distributions Account by the amount of such cash that was to have been distributed to such Member. Subsequently, when a Member is required to, or desires to, make a Capital Contribution required or permitted by this Agreement, in lieu of making such Capital Contribution such Member may instruct the Joint Venture Company to reduce such Member's Accumulated Distributions Account in an amount (not to exceed the amount in such Member's Accumulated Distributions Account) up to the amount of such Capital Contribution, which shall be treated for all purposes (including for purposes of the definition of Capital Contribution Balance) as if such Member had made such Capital Contribution at the time designated in such instruction. A Member may, at any time, demand payment of, and the Joint Venture Company shall immediately pay, the full amount of such Member's Accumulated Distributions Account, in which event the amount so paid shall reduce the Member's Accumulated Distributions Account.

5.2 Withholding Tax Payments and Obligations. In the event that withholding taxes are paid or required to be paid in respect of payments made to or by the Joint Venture Company, or allocations to a Member, such withholding shall be treated as follows:

(A) Payments to the Joint Venture Company. If the Joint Venture Company receives proceeds in respect of which a tax has been withheld, the Joint Venture Company shall be treated as having received cash in an amount equal to the amount of such withheld tax, and, for all purposes of this Agreement, each Member shall be treated as having received a distribution pursuant to Section 5.1 equal to the portion of the withholding tax allocable to such Member, as reasonably determined by the Board of Managers. Such amounts shall not be treated as Joint Venture Company expenses.

(B) Payments by the Joint Venture Company. The Joint Venture Company is authorized to withhold, and the Precedent Partner shall take any actions reasonably necessary to withhold, from any payment made to, or any distributive share of, a Member any taxes required by law to be withheld, and in such event, such taxes shall be treated as if an amount equal to such withheld taxes had been distributed to such Member pursuant to Section 5.1 (or, as provided in Section 5.2(C), loaned to such Member).

(C) Certain Withheld Taxes Treated as Demand Loans. Any taxes withheld pursuant to Sections 5.2(A) or 5.2(B) hereof shall be treated as if distributed to the relevant Member pursuant to Section 5.1 to the extent an amount equal to such withheld taxes would then be distributable to such Member, and, to the extent in excess of such distributable amounts, as a demand loan payable by the Member to the Joint Venture Company with interest at a rate equal

to [***] (or, if less, the maximum rate allowed by law), compounded and adjusted [***], commencing five (5) days after written demand therefor on behalf of the Joint Venture Company is made by any other Member.

5.3 Distribution Limitations. Notwithstanding anything in this Agreement to the contrary, the Joint Venture Company shall not make any distribution of cash or other property to any Member if the distribution would violate any agreement to which the Joint Venture Company or any of its Subsidiaries is a party or by which it or any of them is bound.

ARTICLE 6.
MANAGEMENT; BOARD OF MANAGERS

6.1 Management Power. Except as specifically provided in Article 7, Article 8, and Sections 11.1, 11.2 and 11.3, the business, property and affairs of the Joint Venture Company shall be managed by or under the direction of a board of Managers (the "**Board of Managers**"), and, except as provided in Article 7, Article 8 and Sections 11.1, 11.2 and 11.3, no Member shall have any right to participate in or exercise control or management power over the business and affairs of the Joint Venture Company or otherwise to bind, act or purport to act on behalf of the Joint Venture Company in any manner. No individual Manager, in his or her capacity as such, may act on behalf of the Board of Managers or bind the Joint Venture Company. Subject to the limitations set forth in this Agreement, the Board of Managers shall have all the rights and powers specifically set forth in Section 6.3.

6.2 Number of Managers; Appointment of Managers.

(A) The Board of Managers shall consist of eight (8) individuals (each such individual, a "**Manager**"). Subject to Section 6.2(B), one half of the Managers shall be appointed by Micron Singapore and one half of the Managers shall be appointed by Intel Singapore. The initial Managers appointed by Micron Singapore are listed on Appendix C, and the initial Managers appointed by Intel Singapore are listed on Appendix C. Each Member having the right to appoint a Manager or Managers in accordance with this Section shall also have the right, in its sole discretion, to remove such Manager or Managers at any time by delivery of written notice to the other Member(s) and the Joint Venture Company. Any vacancy in the office of a Manager for any reason other than pursuant to Section 6.2(B) (including as a result of such Manager's death, resignation, retirement or removal pursuant to this Section) shall be filled by the Member that appointed the relevant Manager. Unless a Manager resigns, dies, retires or is removed in accordance with this Section, each Manager shall hold office until a successor shall have been duly appointed by the appointing Member. Unless the Members agree otherwise, each Member who has the right to appoint three (3) or more Managers shall appoint at least one (1) Manager that is a resident of Singapore.

(B) Effect of Change in Percentage Interest on Managers. While a Member's Percentage Interest is below [***] percent ([***]%) but at least [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the number of Managers the other Member is entitled to appoint to the Board of Managers shall be increased to [***] ([***]). While a Member's Percentage Interest is below [***] percent ([***]%) but at least [***] percent ([***]%), the number of

Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the number of Managers the other Member is entitled to appoint to the Board of Managers shall be increased to [***] ([***]). While a Member's Percentage Interest is below [***] percent ([***]%) but at least [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the number of Managers the other Member is entitled to appoint to the Board of Managers shall be increased to [***] ([***]). While a Member's Percentage Interest is below [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***], and the other Member shall be entitled to appoint [***] Managers to the Board of Managers; *provided*, *however*, that the Member with a Percentage Interest of less than [***] percent ([***]%) shall be entitled to designate, from time to time, an individual who shall not be a member of, and shall have no right to vote at any meeting of, the Board of Managers, but who shall have the right to receive notice of, attend, and act as an observer for such Member at, any meeting of the Board of Managers, and who shall receive all materials delivered to the Board of Managers in connection with any such meetings. If either Member's Percentage Interest should be below any of the threshold levels set forth above and if such Member (the "**Appointing Member**") then has more designees serving on the Board of Managers than the number to which it is entitled, such Appointing Member shall immediately identify by written notice to the other Member the designee or designees on the Board of Managers that will cease serving on the Board of Managers and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. If such Appointing Member fails to make such designation within five (5) Business Days after written demand by the other Member, the other Member may designate by written notice to the Appointing Member one or more (as appropriate) of the Appointing Member's designees on the Board of Managers that will cease serving on the Board of Managers and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. The other Member who is entitled to appoint one or more additional Managers to serve on the Board of Managers may immediately appoint such additional Managers by written notice to the other Member designating such Managers. Similarly, if a Member whose Percentage Interest fell below any threshold level set forth in this Section 6.2(B) subsequently increases its Percentage Interest above any such level, the process shall be reversed.

(C) Chairman of the Board of Managers. Until the end of the Fiscal Year ending in 2007, Micron Singapore shall have the right to designate one of its designated Managers as chairman of the Board of Managers (the "**Chairman**"), and thereafter, for each subsequent Fiscal Year of the Joint Venture Company, the right to designate the Chairman (from among its designated Managers) shall alternate between Intel Singapore and Micron Singapore; *provided*, *however*, that while the Percentage Interest of a Member is below [***] percent ([***]%), the Chairman of the Board will be appointed by the other Member. The Chairman shall preside at all meetings of the Board of Managers and shall have such other duties and responsibilities as may be assigned to him or her by the Board of Managers. The Chairman may delegate to any Manager authority to chair any meeting, either on a temporary or a permanent basis. The Chairman must include any item submitted by a Member or Manager for consideration at a meeting of the Board of Managers, may not cut off debate on any matter being considered by the Board of Managers and shall call for a vote on any matter at the request of any Manager, including any matter described in Section 6.3(B).

(D) Presence of Certain Officers at Meetings of Board of Managers. The Site Manager, who shall not be a member of the Board of Managers, may attend, but shall have no right to vote at, all meetings of the Board of Managers; *provided*, *however*, that the Board of Managers may exclude the Site Manager from such meetings or such portions of meetings at which the compensation or performance of, or any issue involving, the Site Manager is discussed as the Board of Managers, in its sole discretion, deems appropriate.

6.3 Voting of Managers.

(A) Each Manager shall be entitled to one (1) vote, and Managers shall not be entitled to cast their votes through proxies (except as provided in Section 6.7). Subject to Sections 6.3(B) and 6.3(C), all actions, determinations or resolutions of the Board of Managers shall require the affirmative vote or consent of a majority of the Board of Managers present at any meeting at which a quorum is present (*i.e.*, the affirmative vote of five (5) Managers if the total number of Managers is eight (8)), which majority must include at least [***] appointed by each Member at all times that each Member has at least [***] to the Board of Managers; *provided*, *however*, that any matter that is a Micron Singapore Matter shall be deemed approved upon the approval of a majority of the Managers appointed by Micron Singapore, and any matter that is an Intel Singapore Matter shall be deemed approved upon the approval of a majority of the Managers appointed by Intel. Except as specifically provided in Article 7, Article 8 and Sections 11.1, 11.2 and 11.3, the Board of Managers shall have the right, power and authority to take all actions of the Joint Venture Company, including the following, and in no event shall any of the following actions be taken without the approval of the Board of Managers (which approval may be obtained through the adoption of an Undisputed Approved Business Plan by the Board of Managers in accordance with Sections 11.1 and 11.2, *provided* that the relevant Undisputed Approved Business Plan sets forth such action in reasonable detail), by or with respect to the Joint Venture Company or any Subsidiary of the Joint Venture Company:

(1) entering into any agreement or making any modification or amendment to, or terminating, any agreement between (a) the Joint Venture Company or any Subsidiary of the Joint Venture Company and (b) any Member or an Affiliate of a Member;

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

(3) adopting, or making any material modification, amendment or termination of, material accounting and tax policies, procedures and principles applicable to the Joint Venture Company or any of its Subsidiaries other than those made in accordance with Section 10.9 (*provided*, *however*, that the right, power and authority of the Board of Managers with respect to tax policies, procedures and principles granted under this Section 6.3 shall be subject to the provisions of Section 10.7 hereof);

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

(5) setting any distribution to the Members not required under Article 5;

(6) subject to Section 6.3(B)(1)(b), commencing or settling litigation, except routine employment litigation matters;

(7) making any material purchase, sale or lease (as lessor or lessee) of any real property (except for any such purchase or lease to effectuate an Intel Singapore Matter that is approved by a majority of the Intel Singapore Managers then in office or a Micron Singapore Matter that is approved by a majority of the Micron Singapore Managers then in office);

(8) acquiring securities or any equity ownership interest in any Person, other than a Wholly-Owned Subsidiary of the Joint Venture Company established to hold a Fab or assets of the Joint Venture Company or any of its Subsidiaries;

(9) making any public announcement by the Joint Venture Company or any Subsidiary of the Joint Venture Company of any material non-public information not previously approved for public announcement by the Board of Managers;

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

(11) approving any Proposed Business Plan, or amending or modifying any Approved Business Plan (or any modification thereof), subject to Sections 11.1(C), 11.2(D) and 11.2(E);

(12) making any filing with, public comments to, or negotiation or discussion with, any Governmental Entity (excluding regular operating filings and other routine administrative matters and other than any such filing, public comments, or negotiation or discussion relating to an Intel Singapore Matter that is approved by a majority of the Intel Singapore Managers then in office or relating to a Micron Singapore Matter that is approved by a majority of the Micron Singapore Managers then in office); and

(13) establishing, overseeing and modifying the investment policies of the Joint Venture Company with respect to funds held by the Joint Venture Company, including funds reserved pursuant to Section 2.2 pending the use of such funds in accordance with any applicable Approved Business Plan.

(B) (1) Notwithstanding the foregoing, any action of the Board of Managers with respect to any of the following matters relating to a Member (the "**Interested Member**") shall be deemed approved by the Board of Managers if approved either by the affirmative vote at a meeting of the Board of Managers of a majority of the Managers appointed by the other Member (the "**Independent Member**") with respect to such action or by written consent of a majority of the Managers appointed by such Independent Member:

(a) any determination to grant indemnification to the Interested Member for any matter not contemplated by Section 14.2 hereof; or

(b) the pursuit of any remedy by the Joint Venture Company or a Subsidiary of the Joint Venture Company against the Interested Member or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture) in accordance with Section 7.5; or

(c) any other matter (other than a matter provided for in Section 6.3(B)(2)) in which the interests of the Joint Venture Company or a Subsidiary of the Joint Venture Company and the Interested Member, or an officer, director, controlling stockholder or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture), are adverse.

(2) The entry into, modification of, amendment to, or termination by the Joint Venture Company of any agreement or other transaction between the Joint Venture Company or any Subsidiary of the Joint Venture Company, on the one hand, and the Interested Member or an officer, director, controlling stockholder or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture), on the other hand, (an "**Interested Member Transaction**") shall be permitted only if:

(a) The material facts as to the relationship or interest of the Interested Member (and its officers, directors, controlling stockholders and Affiliates (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture)) as to the Interested Member Transaction are disclosed or are known to the Board of Managers and the Independent Member, and the Board of Managers in good faith authorizes the Interested Member Transaction by the affirmative votes of a majority of the Managers appointed by the Independent Member, even though the Managers appointed by the Independent Member may be less than a quorum; or

(b) The material facts as to the relationship or interest of the Interested Member (and its officers, directors, controlling stockholders and Affiliates) as to the Interested Member Transaction are disclosed or are known to the Independent Member, and the Interested Member Transaction is specifically approved in writing by the Independent Member; or

(c) The Interested Member Transaction is authorized, approved or ratified by the Board of Managers and is fair as to the Joint Venture Company or the applicable Subsidiary of the Joint Venture Company and the Independent Member as of the time it is so authorized, approved or ratified by the Board of Managers.

(3) Managers appointed by the Interested Member may be counted in determining the presence of a quorum at a meeting of the Board of Managers which authorizes the Interested Member Transaction.

(C) Notwithstanding anything in this Agreement to the contrary, if a Member has only [***] to the Board of Managers as a result of its Percentage Interest falling below the requisite threshold set forth in Section 6.2(B), the following actions will require the approval of a majority of the members of the Board of Managers, including the Manager appointed by such Member:

(1) any material modification, amendment or termination of material accounting and tax policies, procedures and principles applicable to the Joint Venture Company or any of its Subsidiaries, other than those made in accordance with Section 10.9 (*provided*, *however*, that the right, power and authority of the Board of Managers with respect to tax policies, procedures and principles granted under this Section 6.3 shall be subject to the provisions of Section 10.7 hereof); and

(2) except for any litigation matter subject to Section 6.3(B)(1)(b), any settlement of a litigation matter or a group of related litigation matters, other than routine litigation matters not involving current or former members of management, where the amount of damages payable by the Joint Venture Company or any of its Subsidiaries exceeds $[***] or that results in disparate treatment of the Members.

6.4 Meetings of the Board of Managers; Quorum. The Board of Managers shall hold meetings at least once per Fiscal Quarter. Subject to a Manager's right to appoint an alternate Manager in accordance with Section 6.7, the presence of at least a majority of the Managers (five (5) while the number of Managers is eight (8)), in person or by telephone conference or by other means of communications acceptable to the Board of Managers, shall be necessary and sufficient to constitute a quorum for the purpose of taking action by the Board of Managers at any meeting of the Board of Managers; *provided*, that such quorum shall consist of at least a majority of the Managers appointed by each Member that appoints an odd number of Managers greater than one, and at least half of the Managers appointed by each Member that appoints an even number of Managers. No action taken by the Board of Managers at any meeting shall be valid unless the requisite quorum is present.

6.5 Notice; Waiver. The regular quarterly meetings of the Board of Managers described in Section 6.4 shall be held upon not less than ten (10) days' written notice. Additional meetings of the Board of Managers shall be held (A) at such other times as may be determined by the Board of Managers, (B) at the request of at least two (2) Managers or the Site Manager upon not less than five (5) Business Days' written notice or (C) in accordance with Section 17.1 following a failure by the Board of Managers to adopt or reject a proposal for action presented to it. For purposes of this Section, notice may be provided via facsimile, email or any other manner provided in Section 18.1, or telephonic notice to each Manager (which notice shall be provided to the other Managers by the requesting Managers). The presence of any Manager at a meeting (including by means of telephone conference or other means of communications acceptable to the Board of Managers) shall constitute a waiver of notice of the meeting with respect to such Manager, unless such Manager declares at the meeting that such Manager objects

to the notice as having been improperly given. The Board of Managers shall cause written minutes to be prepared of all actions taken by the Board of Managers and shall cause a copy thereof to be delivered to each Manager within fifteen (15) days of each meeting.

6.6 Action Without a Meeting; Meetings by Telecommunications.

(A) On any matter that is to be voted on, consented to or approved by the Board of Managers, the Board of Managers may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the Managers having not less than the minimum votes that would be necessary to authorize or take such action, in accordance with the terms of this Agreement, at a meeting at which all the Managers were present and voted.

(B) Unless the Act otherwise provides, members of the Board of Managers shall have the right to participate in all meetings of the Board of Managers by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

6.7 Alternate Managers. Each Manager shall have the right to designate an individual to attend and vote at meetings of the Board of Managers as the proxy of such regularly appointed Manager.

6.8 Compensation of Managers. The Managers, in their capacity as such, shall not receive compensation from the Joint Venture Company. Each Member shall bear the cost and expenses incurred by its appointed Managers in connection with the Joint Venture Company's business while such Managers are serving in such capacity.

6.9 Statutory Manager. There shall, at all times, be one person ordinarily resident in Singapore appointed as the statutory manager of the Joint Venture Company solely for the purposes of section 23 of the Act (the "**Statutory Manager**"). The duties of the Statutory Manager, in his or her capacity as Statutory Manager, shall be confined solely to ensure that all acts, matters and things that are required to be done by the Joint Venture Company under sections 24, 27 and 28 of the Act are done by the Joint Venture Company and being responsible in respect of such matters under section 23(3) of the Act. The Statutory Manager shall be appointed by the Consolidating Member unless the Members agree otherwise in writing. The Consolidating Member shall also have the right, in its sole discretion, to remove such Statutory Manager at any time by delivery of written notice to the other Member(s) and the Joint Venture Company, unless otherwise agreed in writing by the Members. Any vacancy in the position of Statutory Manager for any reason (including as a result of such Statutory Manager's death, resignation, retirement or removal pursuant to this Section) shall be filled by the Consolidating Member, unless otherwise agreed in writing by the Members. The first Statutory Manager shall be appointed by Micron Singapore and, unless such Statutory Manager resigns, dies, retires or is removed in accordance with this Section, such Statutory Manager shall serve in such position until a successor shall have been duly appointed by the Consolidating Member or as otherwise agreed in writing by the Members. For avoidance of doubt, no Manager under this Agreement

shall be the Statutory Manager unless such Manager is so designated by the Member appointing such Statutory Manager in accordance with this Section.

ARTICLE 7.
MEMBERS

7.1 Rights of Members; Meetings.

(A) The Members shall be the partners of the Joint Venture Company under the Act, and shall be entitled to the following: (1) receive financial reports and tax reporting information referenced in Sections 10.4 and 10.6; (2) receive (y) the then-current Approved Business Plans, as updated from time to time in accordance with Section 11.1 or Section 11.2 and any Proposed Business Plan and (z) the then-current Operating Plan; (3) receive such additional information of the Joint Venture Company or any of its Subsidiaries as may reasonably be requested by a Member; (4) copies of any third party audit findings from any audit of the Joint Venture Company or any Subsidiary of the Joint Venture Company, any subcontractor for the Joint Venture Company or any Subsidiary of the Joint Venture Company or any Person that provides services to the Joint Venture Company or any Subsidiary of the Joint Venture Company (including a Member in such capacity but only to the extent contemplated by the applicable service agreement with such Member); and (5) such additional rights as are elsewhere provided in this Agreement or by mandatory requirements of Applicable Law, including mandatory requirements of the Act.

(B) At any time, and from time to time, the Board of Managers may, but shall not be required to, call meetings of the Members.

(1) Special meetings of the Members for any proper purpose or purposes may be called at any time by either Member. Each meeting of the Members shall be conducted by the Site Manager or designee of the Site Manager and shall be held at the principal offices of the Joint Venture Company or at such other place as may be agreed upon from time to time by the Members. The Site Manager or his or her designee, as applicable, shall include any item submitted by a Member for consideration at a meeting of the Members, may not cut off debate on any matter being considered by the Members and shall call for a vote on any matter at the request of any Member. Meetings may be held by telephone if both Members so consent.

(2) Except as otherwise required by Applicable Law, written notice (which may be provided via facsimile or electronic mail with receipt confirmation) of each meeting of the Members of the Joint Venture Company shall be given not less than five (5) nor more than thirty-five (35) days before the date of such meeting.

(3) The presence, either in person or by proxy, of Members whose combined Percentage Interests equal one hundred percent (100%) is required to constitute a quorum at any meeting of the Members.

(4) Each Member may authorize any Person (*provided* such Person is an officer of the Member) to act for it or on its behalf on all matters in which the Member is entitled to participate. Each proxy must be signed by a duly authorized officer of the

Member. All other provisions governing, or otherwise relating to, the holding of meetings of the Members shall be established from time to time as mutually agreed by the Members.

(5) The Members shall be entitled to vote on any matter submitted to a vote of the Members in proportion to their Percentage Interests. Members may vote either in person or by proxy at any meeting. Each Member shall be entitled to cast one (1) vote for each full percentage of the Percentage Interest held by such Member. Fractional votes shall be permitted.

(6) Any action permitted or required by the Act, the Certificate, or this Agreement to be taken at a meeting of Members may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by the Member or Members whose vote or approval is required for the taking of such action under this Agreement. Such consent shall have the same force and effect as if such action was approved by vote at a meeting at which all the Members were present and voted and may be stated as such in any document or instrument filed with the ACRA, and the execution of such consent shall constitute attendance or presence in person at a meeting of Members.

7.2 Limitations on the Rights of Members.

(A) Subject to any mandatory requirements of Applicable Law, including mandatory requirements under the Act, except as provided in this Agreement or as otherwise unanimously agreed in writing by the Members, no Member (in its capacity as a Member) has the right to take any part whatsoever in the management and control of the business of the Joint Venture Company, sign for or bind the Joint Venture Company or any of its Subsidiaries, compel a sale or appraisal of the Joint Venture Company's or any of its Subsidiaries' assets, or sell or assign its Interest in the Joint Venture Company or any of its Subsidiaries.

(B) No Member may, without the prior written consent of the other Member: (1) confess any judgment against the Joint Venture Company or any of its Subsidiaries; (2) act for, enter into any agreement on behalf of or otherwise purport to bind the other Member, the Joint Venture Company or any of its Subsidiaries; (3) do any acts in contravention of this Agreement or any of the Affiliate Agreements; (4) except as contemplated by the Affiliate Agreements, dispose of the goodwill or the business of the Joint Venture Company or any of its Subsidiaries; (5) Transfer its Interest in the Joint Venture Company (except as provided in Sections 12.2, 12.4(A), 12.4(B) or 12.5); or (6) assign the property of the Joint Venture Company or any of its Subsidiaries in trust for creditors or on the assignee's promise to pay any indebtedness of the Joint Venture Company or any of its Subsidiaries.

7.3 Limited Liability of the Members. Except to the extent expressly set forth in Article 2 of this Agreement or otherwise in a written instrument executed by the Member against whom any liability is asserted in favor of the Person asserting such liability, the Members (solely in their capacity as Members) have no obligation to contribute to the Joint Venture Company or any of its Subsidiaries and shall not be liable for any debt, obligation or liability of the Joint Venture Company or any of its Subsidiaries. Any liability to return distributions made by the

Joint Venture Company is limited to mandatory requirements of the Act or of any other Applicable Law.

7.4 Voting Rights of Members.

(A) Notwithstanding anything in this Agreement to the contrary, for so long as a Member's Percentage Interest is greater than [***] ([***]%), the following actions shall require the unanimous approval of the Members:

(1) any amendment, restatement or revocation of the Certificate, except (a) as provided in Section 1.5(A) to effectuate a change in the principal place of business of the Joint Venture Company, (b) to change the name of the Joint Venture Company, (c) as required by Applicable Law, or (d) to accomplish any action that would be allowed under the terms and conditions of this Agreement where the only prohibition on the performance of such action is the terms of the Certificate;

(2) any material change in the business purpose of the Joint Venture Company or any of its Subsidiaries, other than a change in accordance with the proviso to Section 1.4;

(3) any Transfer of any Interest to any Person, except as expressly permitted by Sections 12.2, 12.4(A), 12.4(B) or 12.5;

(4) any agreement with respect to all present or former Members to extend the period for assessing any tax which is attributable to any Joint Venture Company item or item of any of the Joint Venture Company's Subsidiaries;

(5) any approval of the inclusion within the business purpose of the Joint Venture Company or any of its Subsidiaries the manufacture of memory products other than NAND Flash Memory Products, subject to the proviso to Section 1.4;

(6) any approval or setting of any distribution to any Member (other than distributions of cash in accordance with Article 5); *provided*, *however*, that a Member's consent for the purposes of this Section 7.4(A)(6) shall not be unreasonably withheld; and

(7) the sale, license, assignment or other transfer of any intellectual property owned or in the possession of the Joint Venture Company or any Subsidiary of the Joint Venture Company (including any technology or know-how, whether or not patented, any trademark, trade name or service mark, any copyright or any software or other method or process) to any Person other than a Domestic Facilities Company or an Applicable Joint Venture or a Wholly-Owned Subsidiary of an Applicable Joint Venture, except as provided in the Joint Venture Documents or as otherwise unanimously agreed in writing by the Members.

(B) Notwithstanding anything in this Agreement to the contrary, and in addition to the provisions of Section 7.4(A), for so long as a Member's Percentage Interest is at

least [***] percent ([***]%), the following actions shall require the unanimous approval of the Members:

(1) the incurrence of any indebtedness for borrowed money, other than (i) as provided in Article 2 or Article 3 and (ii) any third-party equipment financing;

(2) any sale, lease, pledge (other than pledges of equipment under a permitted third-party equipment financing), assignment, transfer (other than transfers to a Wholly-Owned Subsidiary of the Joint Venture Company) or other disposition of any asset of the Joint Venture Company or any of its Subsidiaries or group of assets in each case other than in the ordinary course, unless approved in an Undisputed Approved Business Plan or unless made in connection with a dissolution of the Joint Venture Company as contemplated by Article 13; *provided*, *however*, that unanimous approval will not be required if the aggregate amount of such sales, leases, pledges (other than pledges of equipment under a permitted third-party equipment financing), assignments, transfers (other than transfers to a Wholly-Owned Subsidiary of the Joint Venture Company) and other dispositions not in the ordinary course do not exceed the amount provided for in an Undisputed Approved Business Plan by more than $[***] in any Fiscal Year;

(3) any purchase, lease or other acquisition, in any single transaction or in a series of related transactions, of personal property or services or capital equipment inconsistent with an Approved Business Plan (after taking into account any general overrun provisions contained in such Approved Business Plan);

(4) any capital expenditures or series of related capital expenditures, that exceed the amount provided therefor in the most recently Approved Business Plan (after taking into account any general spending overrun provisions contained in such Approved Business Plan) or any commitment by the Joint Venture Company or any Subsidiary of the Joint Venture Company to make expenditures in any development project in an amount greater than the amount set forth in the most recently Approved Business Plan (after taking into account any general spending overrun provisions contained in such Approved Business Plan);

(5) any merger, consolidation or other business combination to which the Joint Venture Company or any Subsidiary of the Joint Venture Company is a party, or any other transaction to which the Joint Venture Company or any Subsidiary of the Joint Venture Company is a party (other than where the Joint Venture Company is merged or combined with or consolidated into a Wholly-Owned Subsidiary of the Joint Venture Company), resulting in a change of control of the Joint Venture Company or any Subsidiary of the Joint Venture Company, other than a change of control that may occur pursuant to Article 2 or Article 3;

(6) (a) the voluntary commencement or the failure to contest in a timely and appropriate manner any involuntary proceeding or the filing of any petition seeking relief under bankruptcy, insolvency, receivership or similar laws, (b) the application for or consent to the appointment of a receiver, trustee, custodian, conservator

or similar official for the Joint Venture Company or any Subsidiary of the Joint Venture Company, or for a substantial part of their property or assets, (c) the filing of an answer admitting the material allegations of a petition filed against the Joint Venture Company or any Subsidiary of the Joint Venture Company in any proceeding described above, (d) the consent to any order for relief issued with respect to any proceeding described in this subsection (6), (e) the making of a general assignment for the benefit of creditors, or (f) the admission in writing of the Joint Venture Company's inability, or the failure of the Joint Venture Company or of any Subsidiary of the Joint Venture Company generally, to pay its debts as they become due or the taking of any action for the purpose of effecting any of the foregoing;

(7) the acquisition of any business or entry into any joint venture or partnership;

(8) the creation of any direct or indirect Subsidiary of the Joint Venture Company other than a Domestic Facilities Company or any other Wholly-Owned Subsidiary of the Joint Venture Company; and

(9) negotiating external sources of additional wafer manufacturing capacity for Joint Venture Products.

In addition, such Member shall have the right to review and comment on any public announcement by the Joint Venture Company or any Subsidiary of the Joint Venture Company.

(C) Notwithstanding anything in this Agreement to the contrary, and in addition to the provisions of Sections 7.4(A) and 7.4(B), for so long as a Member's Percentage Interest is at least [***] percent ([***]%), the following actions shall require the unanimous approval of the Members:

(1) the purchase, license or other acquisition of rights to third party intellectual property other than routine software licenses in connection with the Joint Venture Company's or any of its Subsidiaries' ongoing operations.

7.5 Defaulting Member. Notwithstanding anything in this Agreement to the contrary, in no event shall the pursuit of any remedy by the Joint Venture Company or any of its Subsidiaries against a Defaulting Member pursuant to Section 17.7 require the consent of such Defaulting Member. The Non-Defaulting Member shall have the right to control the Joint Venture Company's pursuit of any such claim against the Defaulting Member.

7.6 Cooperation.

(A) Intel Singapore may take action on behalf of the Joint Venture Company with respect to any Intel Singapore Matter and shall cooperate with and keep Micron Singapore regularly informed with respect to any Intel Singapore Matter.

(B) Micron Singapore may take action on behalf of the Joint Venture Company with respect to any Micron Singapore Matter and shall cooperate with and keep Intel Singapore regularly informed with respect to any Micron Singapore Matter.

ARTICLE 8.
OFFICERS AND COMMITTEES

8.1 Site Manager.

(A) The Board of Managers shall appoint a site manager (the "**Site Manager**"), who shall have responsibility for the day-to-day general management and control of the business and affairs of the Joint Venture Company and its Subsidiaries and overseeing the implementation of the strategic direction of the Joint Venture Company and its Subsidiaries. The Site Manager shall perform or oversee those duties and have all powers that are commonly incident to the office of chief executive officer or that are specifically delegated to him or her by the Board of Managers. The Site Manager shall reside in Singapore and shall be a full time employee of the Joint Venture Company, selected by the Board of Managers, subject to the consent of any Member whose Percentage Interest is at least [***] percent ([***]%), which consent shall not be unreasonably withheld or delayed. The Board of Managers shall have the right to remove any Site Manager at any time, with or without cause, subject to the terms of any employment contract between the Joint Venture Company and the Site Manager.

(B) The Board of Managers shall determine, from time to time, the incentive compensation for which the Site Manager may be eligible based upon the Joint Venture Company's operational success.

8.2 Intentionally Omitted.

8.3 Lead Controller.

(A) The Joint Venture Company shall have a financial manager (the "**Lead Controller**") who shall serve as the principal financial officer of the Joint Venture Company and shall have responsibility for and authority over the day-to-day financial matters of the Joint Venture Company and its Subsidiaries. The Lead Controller shall perform such duties and have such powers specifically delegated to the Lead Controller by the Board of Managers. The Lead Controller shall reside in Singapore and shall be a full time employee of Micron Singapore or a Relative of Micron Singapore seconded on a full time basis to the Joint Venture Company by Micron Singapore or a Relative of Micron Singapore, or another individual selected by Micron Singapore, subject to the consent of Intel Singapore, which consent shall not be unreasonably withheld or delayed. Micron Singapore shall have the right to remove the Lead Controller at any time, with or without cause, *provided* that it provides at least ten (10) days written notice of removal to Intel Singapore and the Joint Venture Company. Micron Singapore shall have the right to fill any vacancy in the position of Lead Controller for any reason (including as a result of the Lead Controller's death, resignation, retirement or removal pursuant to this Section), subject to the consent of Intel Singapore, which consent shall not be unreasonably withheld or delayed. The Lead Controller shall report directly to the Board of Managers.

(B) The Board of Managers shall determine, from time to time, the incentive compensation for which the Lead Controller may be eligible based upon the Joint Venture Company's operational success.

(C) For so long as there is a Lead Controller who is seconded to the Joint Venture Company by a Member, the other Member shall be entitled to second to the Joint Venture Company a senior finance officer of such other Member or of a Relative of such other Member to assist the Lead Controller in the execution of his or her duties set forth in this Section 8.3. The senior finance officer shall reside in Singapore and shall be seconded on a full time basis to the Joint Venture Company. The Board of Managers shall determine, from time to time, the incentive compensation for which such officer may be eligible based upon the Joint Venture Company's operational success.

8.4 Intentionally Omitted.

8.5 General Provisions Regarding Officers.

(A) There shall be one or more site managers of the Joint Venture Company who shall serve as officers of the Joint Venture Company and shall have such authority and perform or oversee those duties that are delegated to such officers by the Board of Managers or the Site Manager. The Board of Managers may, from time to time, designate other officers of the Joint Venture Company, delegate to such officers such authority and duties as the Board of Managers may deem advisable and assign titles to any such officers. Except as otherwise provided in this Agreement, officers may either be full time employees of the Joint Venture Company resident in Singapore or Seconded Employees. Unless the Board of Managers otherwise determines or unless otherwise provided by this Agreement, if the title assigned to an officer of the Joint Venture Company is one commonly used for officers for businesses of comparable size in the same industry, then, subject to the terms of this Agreement, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are customarily associated with such office for businesses of comparable size in the same industry. Except as otherwise provided in this Agreement, any number of titles may be held by the same individual.

(B) Subject to all rights, if any, under any contract of employment, any officer to whom a delegation is made pursuant to Section 8.5(A) shall serve in the capacity delegated unless and until such delegation is revoked by the Board of Managers for any reason or no reason whatsoever, with or without cause, or such officer resigns.

8.6 Intentionally Omitted.

8.7 Waiver of Fiduciary Duties.

(A) In connection with the determination of any and all matters presented for action to the Members or the Board of Managers, as applicable, the Members acknowledge and agree that each Member will be acting on its own behalf and each Representative serving on the Board of Managers will be acting on behalf of the Member that appointed such Representative.

(B) Each Member may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting, in its own interest (subject to the express terms of any contract entered into by such Member) without regard to the interest of the other Member or the Joint Venture Company or any of its Subsidiaries, and, subject to Section 8.7(D), each Representative may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting at

the direction or control of, or in a manner that such Representative believes is in the best interest of, the Member that appointed the Representative without regard to the interest of the other Member or the Joint Venture Company or any of its Subsidiaries. Further, each Member may, to the fullest extent permitted by Applicable Law (subject to the express terms of any contract entered into by such Member), make decisions and exercise direction and control over the decisions of the Representatives appointed by such Member without duty to or regard for the interests of the other Member or the Joint Venture Company or any of its Subsidiaries.

(C) The Joint Venture Company, on its own behalf and on behalf of each of its Subsidiaries, and each Member waives, to the fullest extent permitted by Applicable Law, (1) any claim or cause of action against any Member or Manager based on the determination of any and all matters presented for action to the Members or the Board of Managers, as applicable, (2) breach of fiduciary duty, duty of care, duty of loyalty or any other duty or (3) breach of the Act; *provided*, *however*, the foregoing will not limit any Member's obligation under or liability for breach of the express terms of this Agreement or any other agreement that they have entered into with the Joint Venture Company or any of its Subsidiaries or the other Member; and *provided further*, *however*, that, unless a Member has received the written consent of the other Member authorizing such activities, no Member shall negotiate or enter into or request or otherwise cause the Joint Venture Company to negotiate or enter into any agreement or transaction that would result in such Member or any of its Subsidiaries receiving any financial consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person based upon the Joint Venture Company's taking an action (including hiring any employees, undertaking any construction or purchasing any equipment) or entering into such agreement or transaction other than as a Member of the Joint Venture Company pursuant to this Agreement, and any Member who receives any such consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person in respect of the Joint Venture Company's activities, shall promptly convey such consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person to the Joint Venture Company without any adjustment in the Capital Contribution Balance of such Member.

(D) The term "**Representative**" shall mean, with respect to a Member and the Managers and the employees, agents and other representatives of such Member including the Seconded Employees of such Member, but not including, only for purposes of Section 8.7(C)(2), the Site Manager, the Lead Controller or any other officer or site manager of the Joint Venture Company (and each such officer shall be bound by such fiduciary and other duties (including the duty of care and the duty of loyalty) as would apply to an officer having comparable authority and duties under the DGCL).

ARTICLE 9.
EMPLOYEE MATTERS

9.1 Joint Venture Company Employees; Seconded Employees. The Joint Venture Company shall employ its own personnel and shall be their exclusive employer. In addition, certain other persons who are employed by Micron Singapore or its Relatives or Intel Singapore

or its Relatives may be seconded by Micron or Intel, respectively, and certain other persons who are employed by the U.S. Joint Venture Company may be seconded by the U.S. Joint Venture Company, to work in Singapore for the Joint Venture Company on a full time basis for a given period of time ("**Seconded Employees**") pursuant to the terms and conditions of the Micron Personnel Secondment Agreement, the Intel Personnel Secondment Agreement or the U.S. Joint Venture Personnel Secondment Agreement, respectively. Seconded Employees may be utilized to provide services to the Joint Venture Company until (1) the time specified in Article 8 for certain Seconded Employees, if any, acting as officers of the Joint Venture Company, (2) with respect to Seconded Employees employed by Micron Singapore or its Relatives, until the time determined under the terms of the Micron Personnel Secondment Agreement, (3) with respect to Seconded Employees employed by Intel Singapore or its Relatives, until the time determined under the terms of the Intel Personnel Secondment Agreement or (4) with respect to the Seconded Employees employed by the U.S. Joint Venture Company, until the time determined under the terms of the U.S. Joint Venture Company Personnel Secondment Agreement. Notwithstanding the foregoing, no Seconded Employee will become employed by the Joint Venture Company or any of its Subsidiaries unless agreed among the Joint Venture Company and the Members.

9.2 Performance and Removal of Seconded Employees. The Board of Managers shall possess the authority to require that a Seconded Employee be reassigned by the seconding Member or its Relatives or the U.S. Joint Venture Company, as the case may be, to duties other than with the Joint Venture Company. Subject to the terms of the Intel Personnel Secondment Agreement, the Micron Personnel Secondment Agreement and the U.S. Joint Venture Company Personnel Secondment Agreement, as the case may be, the Site Manager shall possess the authority to require that a Seconded Employee be reassigned by the seconding Member or its Relatives or the U.S. Joint Venture Company, as the case may be, to duties other than with the Joint Venture Company.

9.3 Forms. (A) The Joint Venture Company and each of its Subsidiaries shall have policies applicable to, and ensure that all of its officers, employees and third-party independent contractors, third-party consultants, and other third-party service providers enter into appropriate agreements with respect to, (1) protection of confidential information of the Joint Venture Company and its Subsidiaries, (2) compliance with Applicable Laws, and (3) other matters related to the delivery of services to, or employment of such Person by, the Joint Venture Company or its Subsidiaries. The Joint Venture Company and each of its Subsidiaries shall have policies applicable to, and ensure that all of its officers and employees enter into appropriate agreements with respect to intellectual property assignment, including invention disclosures, pursuant to which ownership to any intellectual property created in the course of employment with the Joint Venture Company or any of its Subsidiaries shall be assigned to the Joint Venture Company. The Joint Venture Company and each of its Subsidiaries shall have policies applicable to, and ensure that all of its third-party independent contractors, third-party consultants, and other third-party service providers that create intellectual property in the course of performing services for the Joint Venture Company or any of its Subsidiaries, enter into appropriate agreements with the Joint Venture Company with respect to the Joint Venture Company's ownership of, or the Joint Venture Company's and its Subsidiaries' right to use, such intellectual property. The forms referred to in this Section 9.3 are collectively referred to as the "**Service Provider Related Forms**."

(B) Notwithstanding any preceding provisions in this Section 9.3 or elsewhere, no Seconded Employee shall be required to sign any Service Provider Related Forms, except with respect to acknowledgement of and agreement regarding policies of the Joint Venture Company addressing conduct while performing services at the premises of the Joint Venture Company, such as workplace safety, but excluding matters relating to protection of confidential information of the Joint Venture Company and its Subsidiaries and intellectual property assignment, which issues have been addressed in other documents. The Joint Venture Company shall be responsible for providing those appropriate Service Provider Related Forms, if any, prepared by the Joint Venture Company for Seconded Employees to the appropriate Seconded Employees, following up to make sure they are signed and for properly storing such forms; however, Intel Singapore and Micron Singapore shall each require that their Seconded Employees sign the applicable Service Provider Related Forms when requested to do so by the Joint Venture Company.

9.4 Compensation and Benefits.

(A) The Joint Venture Company and its Subsidiaries shall have compensation and benefits programs for the employees of the Joint Venture Company and its Subsidiaries (excluding, for this purpose, Seconded Employees) at its locations consistent with local practices in each respective geographic area, as determined by the Site Manager and, to the extent required by law or this Agreement, approved by the Board of Managers, which may initially be modeled after Micron's local compensation and benefits programs if deemed to be appropriate and competitive by the Site Manager and, if applicable, the Board of Managers. Incentive compensation programs for Joint Venture Company employees and the employees of any Subsidiary of the Joint Venture Company will be tied to the Joint Venture Company's operational success, as determined by the Site Manager and approved by the Board of Managers.

(B) It is the intention of Micron Singapore to offer employees of Micron Singapore and its Relatives who transfer to the Joint Venture Company the option to transfer their vacation leave days balance accrued as of the date of transfer to the comparable plan of the Joint Venture Company to be administered in accordance with the terms of such plan. If Micron Singapore and its Relatives allow such a transfer and if an employee so elects, the Joint Venture Company shall credit the employee's Joint Venture Company vacation leave (or similar time bank) account with the transferred time and Micron Singapore shall pay the Joint Venture Company an amount equal to the person's base daily rate multiplied by the vacation leave days transferred.

(C) It is the intention of Intel Singapore to offer employees of Intel Singapore and its Relatives who transfer to the Joint Venture Company the option to transfer their vacation leave days balance accrued as of the date of transfer to the comparable plan of the Joint Venture Company to be administered in accordance with the terms of such plan. If Intel Singapore and its Relatives allow such a transfer and if an employee so elects, the Joint Venture Company shall credit the employee's Joint Venture Company vacation leave (or similar time bank) account with the transferred time and Intel Singapore shall pay the Joint Venture Company an amount equal to the person's base daily rate multiplied by the vacation leave days transferred.

ARTICLE 10.
RECORDS, ACCOUNTS AND REPORTS

10.1 Books and Records. The Site Manager shall keep or cause to be kept adequate books and records with respect to the Joint Venture Company's and each of its Subsidiaries' business, including the following:

(A) a current list of the full name and last known business address of each Member and its appointed Managers and all officers and Representatives;

(B) copies of records that would enable a Member to determine the relative Committed Capital, Percentage Interests, Sharing Interests, Economic Interests, Member Debt Financing, Capital Contribution Balances and Accumulated Distributions Accounts of the Members;

(C) a copy of the Certificate together with any amendments;

(D) copies of the Joint Venture Company's and each of its Subsidiaries' income tax returns and reports, if any, for the longer of (1) five (5) years from the time of filing or (2) with respect to any such tax return of the Joint Venture Company, until the expiration of the statute of limitations on the assessment of income tax liabilities for the taxable year of each Member in which the income required to be shown on such tax return of the Joint Venture Company is required to be included (and each Member shall promptly respond to requests from the officers of the Joint Venture Company in order to determine whether such statute of limitations has expired);

(E) a copy of this Agreement, together with any amendments;

(F) copies of any financial statements of the Joint Venture Company and its Subsidiaries for the greater of its seven (7) most recent years or all open taxable years;

(G) copies of all Proposed Business Plans, Approved Business Plans, Member Business Plans and Operating Plans;

(H) minutes of meetings of the Members, the Board of Managers, and any other committee appointed by the Board of Managers from time to time and all written consents in lieu of a meeting;

(I) copies of all contracts and agreements to which the Joint Venture Company is a party; and

(J) any other records required to be maintained by the Act.

10.2 Access to Information.

(A) To the extent not in violation of Applicable Law, each Member and its agents (which may include employees of the Member or the Member's independent certified accountants) shall have the right, at any reasonable time, to inspect, review, copy and audit (or

cause to be audited) at the expense of the inspecting Member any and all properties, assets, books of account, corporate records, contracts, documentation and any other material of the Joint Venture Company or any of its Subsidiaries, at the request of the inspecting Member. Upon such request, the Joint Venture Company and each of its relevant Subsidiaries shall use reasonable efforts to make available to such inspecting Member the Joint Venture Company's accountants and key employees for interviews to verify information furnished or to enable such Member to otherwise review the Joint Venture Company or any of its Subsidiaries and their operations. Such availability is conditioned upon the terms and conditions of the Confidentiality Agreement.

(B) The Members recognize that the Joint Venture Company may, from time to time, be in possession of Competitively Sensitive Information belonging to a Member or its Relatives, and in no event shall a Member be entitled to access any Competitively Sensitive Information of the other Member or its Relatives in the possession of the Joint Venture Company. The Joint Venture Company shall maintain procedures reasonably acceptable to both Members (including requiring that the Members use reasonable efforts to label or otherwise identify Competitively Sensitive Information as such) to ensure that the Joint Venture Company will not disclose or provide Competitively Sensitive Information of one Member or its Relatives to the other Member (other than to a Joint Venture Company employee or to a Seconded Employee of the other Member to the extent required for such employee or Seconded Employee to perform his or her duties for the Joint Venture Company) or any third party unless such disclosure is specifically requested by the Member or its Relatives providing such Competitively Sensitive Information. The Joint Venture Company shall not be liable for inadvertent disclosures of Competitively Sensitive Information that was not labeled or identified as such.

(C) Upon request, each Member agrees to use reasonable efforts to provide the other Member and the Joint Venture Company with reasonable access to those portions of its facilities and to those items of its and its Relatives' equipment that are being used to provide services to the Joint Venture Company, and to those employees who are providing services to the Joint Venture Company, to verify information regarding such operations or enable such Member and the Joint Venture Company to otherwise review the services being provided to the Joint Venture Company.

10.3 Operations Reports. Subject to Section 10.2(B), the Joint Venture Company and each of its Subsidiaries shall provide both Members with all quarterly, monthly and weekly reporting packages containing such manufacturing and production reports as may be required to be delivered under any agreement with, or otherwise requested by, either Member.

10.4 Financial Reports. The Joint Venture Company and each of its Subsidiaries shall provide the Members the following:

(A) Monthly Reports.

(1) for each Fiscal Month, the Joint Venture Company, and if requested, each of its Subsidiaries, shall provide each Member with the following monthly reports prepared in accordance with Modified GAAP consistently applied, and in accordance with any other accounting principles under which such information must

be prepared by the Joint Venture Company or such Subsidiaries under applicable legal or contractual requirements, in each case within the time period specified below:

(a) Monthly Flash Report within eight (8) days after the end of each Fiscal Month;

(b) monthly cash flow report within fifteen (15) days after the end of each Fiscal Month;

(c) month-end balance sheet within fifteen (15) days after the end of each Fiscal Month;

(d) monthly profit and loss statement within fifteen (15) days after the end of each Fiscal Month;

(e) monthly operational spending summary within fifteen (15) days after the end of each Fiscal Month; and

(f) such other reports as may be required to be delivered under any agreement with, or otherwise reasonably requested by, either Member.

(2) With respect to each of the monthly reports set forth in Section 10.4(A)(1), each Member may provide a sample format for such monthly report as is necessary and appropriate.

(B) Quarterly Reports. (1) As soon as available, but not later than twenty (20) days after the end of each Fiscal Quarter (other than Fiscal Quarters ending on the last day of a Fiscal Year, *provided* that the information required by this Section 10.4(B) will be included in the reports delivered pursuant to Section 10.4(C) below for the Fiscal Year ending on such date), the Joint Venture Company shall provide to each Member a consolidated balance sheet of the Joint Venture Company as of the end of such period and consolidated statements of income, cash flows and changes in Members' equity, as applicable, for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period of the preceding Fiscal Year and including comparisons to the Approved Business Plan, each prepared in accordance with Modified GAAP and in accordance with any other accounting principles under which such information must be prepared by the Joint Venture Company or such Subsidiaries under applicable legal or contractual requirements. The Lead Controller shall discuss with the Members such quarterly financial data and the business outlook of the Joint Venture Company and its Subsidiaries and shall be available to respond to questions from the Members regarding such data and outlook.

(2) In addition, as soon as available, but not later than thirty (30) days after the end of each Fiscal Quarter, the Joint Venture Company shall provide to each Member a consolidated balance sheet of the Joint Venture Company as of the end of each Fiscal Quarter and consolidated statements of income and changes in Members' equity, as applicable, for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such period, setting forth in each case in

comparative form the corresponding figures for the corresponding period of the preceding Fiscal Year (to the extent such comparison is appropriate), each prepared in accordance with GAAP and in accordance with any other accounting principles under which such information must be prepared by the Joint Venture Company or such Subsidiaries under applicable legal or contractual requirements. The Joint Venture Company shall also provide a reconciliation that describes and quantifies the differences between the consolidated financial statements prepared in accordance with GAAP or such other legal or contractual requirement, as applicable, and the consolidated financial statements prepared in accordance with Modified GAAP. The non-Consolidating Member may reasonably request that the Consolidating Member use its reasonable efforts to engage the Consolidating Member's external auditor to perform certain agreed-upon procedures with respect to such reconciliation. Upon such request, the Consolidating Member shall not unreasonably deny or delay such request. The non-Consolidating Member shall promptly reimburse the Consolidating Member for the incremental costs incurred by the Consolidating Member with respect to the performance of such agreed-upon procedures by the Consolidating Member's external auditor.

(C) Annual Audit. As soon as available, but not later than ninety (90) days after the end of the first Fiscal Year of the Joint Venture Company ended August 31, 2007, and not later than sixty (60) days after the end of each Fiscal Year of the Joint Venture Company thereafter, audited consolidated financial statements of the Joint Venture Company and its Subsidiaries, which shall include statements of revenues and expenses, of cash flows and of changes in Members' equity, as applicable, for such Fiscal Year and a balance sheet as of the last day thereof, each prepared in accordance with Modified GAAP, consistently applied, and in compliance with any other accounting principles under which such information must be prepared by the Joint Venture Company or such Subsidiaries under applicable legal or contractual requirements and accompanied by the report of a firm of independent certified public accountants selected from time to time by the Board of Managers (the "**Accountants**").

(D) Right to Audit. Either Member may conduct a separate audit of the Joint Venture Company's financial statements and internal controls over financing reporting at its own expense, and the Members agree to use all reasonable efforts to coordinate the timing of any separate audits that any Member elects to conduct.

10.5 Reportable Events.

(A) The Joint Venture Company shall provide notice to the Members of any Member Reportable Event as soon as possible and in any event no later than [***] ([***]) days following the occurrence of said event. The following events shall be "**Member Reportable Events**":

(1) any action by the Joint Venture Company or a Subsidiary of the Joint Venture Company that will result in recording an impairment of assets of the Joint Venture Company or any of its Subsidiaries, including without limitation, intangibles, goodwill, fixed assets, accounts receivable and inventory, that is expected to exceed $[***], individually or when aggregating other similar assets impaired at the same time;

(2) any decision to shutdown a business unit, close a facility, dispose of long-lived assets or terminate employees (in a FAS 146 plan of termination) whereby the Joint Venture Company or a Subsidiary of the Joint Venture Company may incur an accounting charge that would exceed $[***];

(3) entry by the Joint Venture Company or a Subsidiary of the Joint Venture Company into any off-balance sheet arrangement (unconsolidated transactions with a third party under which the entity retains or has a contingent interest in transferred assets or is obligated under derivative instruments classified in equity, or with a third party that constitutes a "variable interest entity" under FIN 46);

(4) the execution, amendment or termination of a contract that meets one of the following thresholds:

(a) patent, copyright or trademark license requiring payment of more than $[***];

(b) technology licenses requiring payment of more than $[***];

(c) contracts for supply of equipment or materials (i) from either a sole source (single qualified source or true sole source), a supplier with only one site, or a supplier located only in a "high risk" geographic area and (ii) where interruption of supply may cause a key Joint Venture Product to experience a launch delay or production interruption with revenue impact of more than $[***] in a ninety (90)-day period; and

(d) other contracts with a value in excess of $[***]; and

(5) entry into any short-term debt (payable within one year), long-term debt, capital lease, operating lease or guaranty in excess of $[***].

(B) The Joint Venture Company shall provide notice to the Members of any Joint Venture Reportable Event as soon as possible and in any event no later than [***] ([***]) days after the Joint Venture Company becomes aware of such Joint Venture Reportable Event. The following events shall be "**Joint Venture Reportable Events**":

(1) receipt by the Joint Venture Company or any of its Subsidiaries of an offer to buy an Interest in the Joint Venture Company or any of its Subsidiaries or a significant amount of its assets or to merge or consolidate with the Joint Venture Company or any of its Subsidiaries, or any indication of interest from any Person with respect to any such transaction;

(2) the commencement, or threat delivered in writing, of any lawsuit involving the Joint Venture Company or any of its Subsidiaries;

(3) the receipt by the Joint Venture Company or any of its Subsidiaries of a notice that the Joint Venture Company or any of its Subsidiaries is in default under

any loan agreement to which the Joint Venture Company or any of its Subsidiaries is a party;

(4) any breach by the Joint Venture Company or any of its Subsidiaries or a Member or an Affiliate of a Member of any contract, agreement or understanding between the Joint Venture Company or any of its Subsidiaries and a Member or an Affiliate of a Member;

(5) any recall of, or other significant alleged product defects with respect to, any product manufactured by the Joint Venture Company or any of its Subsidiaries, whether or not as a result of a request or order by any Governmental Entity;

(6) any material adverse change with respect to the current status of any item of intellectual property rights owned by the Joint Venture Company or any of its Subsidiaries ("**Intellectual Property Rights**"), including receipt of any adverse notice from any Governmental Entity with respect to such item of Intellectual Property Rights and notice of any action taken or threatened by any third party that could affect the validity of any item of Intellectual Property Rights;

(7) the removal or resignation of the Accountants for the Joint Venture Company, or any adoption, or material modification, of any significant accounting policy or tax policy other than those required by GAAP or any other legal or contractual requirements applicable to the Joint Venture Company (if any such legal or contractual requirement is different); or

(8) any other event that has had, or could reasonably be expected to have, a material adverse effect on the business, results of operations, financial condition or assets of the Joint Venture Company or any of its Subsidiaries.

10.6 Tax Information.

(A) Estimated Tax Information. The Lead Controller shall deliver to each Member, on or prior to the date that is ninety (90) days following the end of each Joint Venture Company Fiscal Year, an estimate of the Singapore taxable income of the Joint Venture Company for such Fiscal Year.

(B) Tax Returns. The Lead Controller shall deliver to each Member, on or prior to the date that is one hundred twenty (120) days following the end of each Joint Venture Company Fiscal Year, a draft of the Singapore income tax computation (and related attachments including a copy of the certified true and correct financial statements of the Joint Venture Company and a draft return of contributed capital of each Member) of the Joint Venture Company for such Fiscal Year. Each Member shall have fifteen (15) days to review such tax returns and provide written comments thereon to the Joint Venture Company, and to the extent the Joint Venture Company does not intend to incorporate such comments into such tax returns the Joint Venture Company and the Members shall attempt to resolve any disagreements within fifteen (15) days after the delivery of such comments to the Joint Venture Company. If the Members and the Joint Venture Company are unable to resolve any disputes regarding the content of such tax returns within such fifteen (15)-day period, the issue or issues shall be

referred for resolution to a partner at a "Big 4" accounting firm (or other nationally recognized accounting firm) reasonably acceptable to the Members and the Joint Venture Company, who shall be requested to resolve open issues, on the basis of the position most likely to be sustained if challenged in a court having initial jurisdiction over the matter (which for Singapore tax issues shall be deemed to be the Singapore court), no later than one hundred eighty (180) days following the end of such Fiscal Year. The decision of such accounting firm shall be final and binding on the Members and the Joint Venture Company, and the costs of such accounting firm shall be Joint Venture Company costs. The Joint Venture Company shall deliver final income tax returns (and related attachments, including a copy of the final tax computation, a copy of the certified true and correct financial statements of the Joint Venture Company and the return of contributed capital of each Member) to the Members within two hundred twenty (220) days after the end of each Fiscal Year of the Joint Venture Company, but not prior to the resolution of disputes among the Members and the Joint Venture Company with respect to such tax returns; *provided* that if such tax returns become due (taking into account extensions of time to file, which the Joint Venture Company shall seek as necessary to avoid the delinquent filing of its tax returns) they shall be filed as determined by the Joint Venture Company and shall be amended and re-filed as required by the outcome of the referral to the accounting firm as provided herein.

10.7 Tax Matters and Precedent Partner. The [***] at the end of a given Fiscal Year (or, if there is no [***] at such time, the Member that served as the Precedent Partner for the prior year) shall serve as the "**Precedent Partner**" for the purpose of Sections 62 and 71 of the Singapore Income Tax Act ("**ITA**") and in any similar capacity under Singapore or foreign law for such year. The Precedent Partner shall supply such information to the Inland Revenue Authority of Singapore ("**IRAS**") and to the other Member as may be necessary to cause the other Member to comply with the ITA. The Precedent Partner shall keep each Member informed of any administrative or judicial proceeding relative to any adjustment or proposed adjustment at the Joint Venture Company level of Joint Venture Company items, and shall provide the other Member with notice and an opportunity to participate in significant meetings or other proceedings (both in person and by telephone), preparation of correspondence and other significant events with respect to taxes pertaining to the Joint Venture Company. Without the prior written approval of all Members, the Precedent Partner shall not (a) enter into any settlement agreement with the IRAS which purports to bind or otherwise could adversely affect Persons other than the Precedent Partner and any Members who agree in writing to be bound by such agreement, (b) file a petition or similar proceeding as contemplated by the ITA, (c) intervene in any action as contemplated by the ITA, (d) file any request as contemplated by the ITA, (e) enter into an agreement extending the period of limitation as contemplated by the ITA, (f) take any actions comparable to those described in clauses (a) through (e) under Singapore or foreign tax law or (g) take any other action in its capacity as Precedent Partner that could significantly affect the tax liability of the other Member.

10.8 Bank Accounts and Funds. Except as otherwise provided in Section 2.2, Joint Venture Company funds, including cash Capital Contributions, shall be deposited in an interest-bearing account or accounts in the name of the Joint Venture Company and shall not be commingled with the funds of any Member, Manager or any other Person. All checks, orders or withdrawals shall be signed by any one or more Persons as authorized by the Board of Managers and subject to the approval rights set forth in Section 10.9(E).

10.9 Internal Controls.

(A) The Joint Venture Company shall have in place a system of internal controls over financial reporting in accordance with the policies of the Consolidating Member as of the Effective Date, the design and operation of which shall be monitored and approved by the Board of Managers and the Lead Controller. Changes to the Joint Venture Company's system of internal controls over financial reporting shall be made at the request of either Member (and if requested by the non-Consolidating Member, the non-Consolidating Member shall reimburse the Joint Venture Company for its reasonable costs incurred in implementing the changes), subject to the other Member's approval, which approval shall not be unreasonably withheld, and, subject to the approval of the Board of Managers and the approval of the Lead Controller, which shall not be unreasonably withheld; *provided*, *however*, that in the event of a Change of Consolidating Member, the internal controls over financial reporting and accounting systems of the Joint Venture Company shall, at the Joint Venture Company's expense, be modified as necessary to satisfy the new Consolidating Member's requirements relating to internal controls over financial reporting, and such Member shall be entitled to receive the information and perform the testing that either it or such Member's auditors deem necessary or advisable to satisfy their responsibilities related thereto.

(B) Each Member shall be entitled, at its own expense, to have one or more internal auditors (not to exceed three (3) internal auditors at any single Facility) located on site at the offices and facilities of the Joint Venture Company with full access to all of the Joint Venture Company's financial and manufacturing records and reporting systems; *provided*, *however*, that such internal auditors shall be required to abide by the procedures maintained by the Joint Venture Company pursuant to Section 10.2(B) for preventing the inappropriate sharing of such information.

(C) The Consolidating Member shall provide to the non-Consolidating Member such information as the non-Consolidating Member may reasonably request in connection with the assessment of whether a Change of Consolidating Member has occurred or may occur. The Consolidating Member, if it is the Non-Funding Member with respect to any outstanding Member Notes, shall promptly notify the non-Consolidating Member if it has determined that it is reasonably likely to not contribute to the Joint Venture Company any amounts to be used to repay any such Member Notes in accordance with Article 3.

(D) The Consolidating Member shall make available to the non-Consolidating Member the findings of the external auditor of the Consolidating Member with respect to the Consolidating Member's annual audit and of its internal control over financial reporting to the extent such findings are applicable to the internal control over financial reporting of the Joint Venture Company. The non-Consolidating Member may reasonably request that the Consolidating Member use its reasonable efforts to engage the Consolidating Member's external auditor to perform certain agreed-upon procedures with respect to such internal control over financial reporting of the Joint Venture Company. Upon such request, the Consolidating Member shall not unreasonably deny or delay such request. The non-Consolidating Member shall promptly reimburse the Consolidating Member for the incremental costs incurred by the Consolidating Member with respect to the performance of such agreed-upon procedures by the Consolidating Member's external auditor.

(E) The internal controls over financial reporting referenced in this Section 10.9 shall provide, among other things, that Joint Venture Company expenditures greater than $[***] shall require the approval of the Site Manager; *provided*, *however*, that a decision to approve or disapprove any such expenditure shall be made in a manner consistent with the [***] Budget and [***] Budget or Annual Budget, as applicable, included in the then-effective Approved Business Plan.

ARTICLE 11.
BUSINESS PLAN

11.1 Initial Business Plan; Initial Budgets.

(A) Initial Approved Business Plan. The Members have agreed upon an initial Approved Business Plan (the "**Initial Business Plan**") of the Joint Venture Company and its Subsidiaries covering the operations of the Joint Venture Company and its Subsidiaries from the Effective Date through [***], which is the end of the Applicable Fiscal Quarter (the "**Initial Period**"). The Initial Business Plan shall be deemed to be an Undisputed Approved Business Plan.

(B) Initial Budgets. The Initial Business Plan includes an [***] budget (the "**[***] Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' operating and capital expenditures relating to matters not covered by a [***] Budget shall be made during the Initial Period and the Capital Contributions that will be needed from the Members during each Fiscal Quarter of the Initial Period to fund the [***] Budget. Such operating and capital expenditures will be funded by the Members' Initial Capital Contributions and by [***] Capital Contributions, which [***] Capital Contributions shall not, in the aggregate, exceed the Maximum Incremental Capital Amount. The Initial Business Plan also includes a budget (the "**[***] Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' operating and capital expenditures for a [***] shall be made during the Initial Period and the Capital Contributions that will be needed from the Members during each Fiscal Quarter of the Initial Period to fund [***] Budget; *provided*, *however*, that if there is no [***] Budget in the Initial Business Plan, then the [***] Budget shall be deemed to be zero.

(C) Modification of Initial Business Plan. Except as otherwise provided in this Section 11.1(C), the Initial Business Plan shall not be amended, updated, modified or superseded without the unanimous written consent of the Members.

(1) Annual Review of Initial Business Plan. At least ninety (90) days prior to the beginning of each of the [***] and [***] Fiscal [***] of the Initial Period and the Applicable Fiscal Quarter, the Board of Managers shall (in consultation with the Site Manager and with the Lead Controller) review the Initial Business Plan and determine whether any amendment thereto is necessary. Subject to Section 6.3(A)(11), upon a determination by the Board of Managers that an amendment to the Initial Business Plan is necessary or appropriate, the Board of Managers may approve such amendment (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan) and the Site Manager shall thereupon implement such amendment to the Initial Business Plan as promptly as commercially practicable; *provided*, *however*, that any failure of the Board

of Managers to approve any amendment to the Initial Business Plan shall result in the continuation of the Initial Business Plan, subject to (a) any prior amendment approved by the Board of Managers and (b) Section 11.1(C)(2).

(2) Member Modification of Initial Business Plan. In addition to any amendment to the Initial Business Plan that may be approved by the Board of Managers pursuant to Section 11.1(C)(1), during the Initial Period:

(a) (i) Each Member shall have the right from time to time to request that the Board of Managers review the Initial Business Plan to consider whether the [***] Budget should be amended to, among other things, adjust the Capital Contribution schedule set forth in the [***] Budget. No such amendment shall cause the [***] Capital Contributions to be made by Micron Singapore in accordance with the [***] Budget, as amended, to exceed the Micron Maximum Incremental Capital Amount, nor shall such amendment cause the [***] Capital Contributions to be made by Intel Singapore in accordance with the [***] Budget, as amended, to exceed, in the aggregate, the Intel Maximum Incremental Capital Amount. Upon such request, the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the Initial Business Plan and determine whether such amendment to the [***] Budget is necessary or appropriate. If the Board of Managers approves such amendment to the [***] Budget in accordance with Section 6.3(A)(11), such amended [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. Subject to clause (ii) of this Section 11.1(C)(2)(a), any failure of the Board of Managers to approve any amendment to the [***] Budget shall result in the continuation of the Initial Business Plan without the proposed amendment.

(ii) If the Board of Managers fails to approve such amendment to the [***] Budget requested by a Member, then such Member may submit a proposed amendment to the Initial Business Plan to adjust the Capital Contribution schedule for the [***] Budget (a "**Member [***] Budget**") to the Board of Managers (with a copy delivered to the other Member) for approval. The other Member may, within twenty (20) days thereof, submit an alternate Member [***] Budget to the Board of Managers for approval. In no event shall a Member [***] Budget call for aggregate [***] Capital Contributions to be made by Micron Singapore in excess of the Micron Maximum Incremental Capital Amount or by Intel Singapore in excess of the Intel Maximum Incremental Capital Amount. If, within twenty (20) days after such twenty (20)-day period, the Board of Managers approves any Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. If

the Board of Managers fails to approve a Member [***] Budget within such twenty (20)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member [***] Budget within ten (10) days of such referral, then the [***] shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be a Disputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable.

(b) (i) Each Member shall have the right from time to time to request that the Board of Managers review the Initial Business Plan to consider whether a [***] Budget should be added thereto or, if previously added thereto, amended to, among other things, adjust the [***] Budget and the Capital Contribution schedule set forth therein. Upon such request, the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the Initial Business Plan and determine whether such [***] Budget or the amendment thereto is necessary or appropriate. If the Board of Managers approves such [***] Budget or the amendment thereto in accordance with Section 6.3(A)(11), such [***] Budget or amended [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. Subject to clause (ii) of this Section 11.1(C)(2)(b), any failure of the Board of Managers to approve any amendment to the [***] Budget shall result in the continuation of the Initial Business Plan without the proposed [***] Budget or amendment thereto.

(ii) If the Board of Managers fails to approve such [***] Budget or the amendment thereto requested by a Member, then either Member may submit a proposed amendment to the Initial Business Plan to add a [***] Budget or to adjust a previously adopted [***] Budget and the Capital Contribution schedule contained therein (a "**Member [***] Budget**") to the Board of Managers (with a copy delivered to the other Member) for approval. If a Member submits a Member [***] Budget, the other Member shall have twenty (20) days to present an alternate Member [***] Budget to the Board of Managers for approval. If, within thirty (30) days after such twenty (20)-day period, the Board of Managers approves any Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed

Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. If the Board of Managers fails to approve a Member [***] Budget within such thirty (30)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member [***] Budget within ten (10) days of such referral, then [***] shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be a Disputed Approved Business Plan), and the Site Manager shall implement the amended Initial Business Plan as promptly as commercially practicable; *provided that*, except as contemplated by Section 11.2(D)(3) below, such Member [***] Budget set forth in any Disputed Approved Business Plan shall not be inconsistent with the [***]; and *provided further* that the most recently adopted Disputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

11.2 Subsequent Business Plans. This Section 11.2 shall apply with respect to any Fiscal Year or Fiscal Quarter ending after the Initial Period (except that to the extent a Proposed Business Plan covers the Applicable Fiscal Quarter, the portion of the Proposed Business Plan covering the [***] Budget for such Applicable Fiscal Quarter shall be governed by Section 11.1).

(A) Proposed Business Plan. For each Fiscal Year ending after the end of the Initial Period, the Site Manager and the Lead Controller shall prepare a proposed three-year business plan (the "**Proposed Business Plan**") at least ninety (90) days prior to the beginning of the applicable Fiscal Year, which shall address, for the Proposed Business Plan period, (1) [***] by the Joint Venture Company and its Subsidiaries, (2) [***] of Joint Venture Products for sale to the Members, (3) [***] needs, (4) [***] proposed and expected to be incurred, (5) the Joint Venture Company's and its Subsidiaries' [***], (6) [***] needs and sources of the Joint Venture Company and its Subsidiaries, (7) forecasted [***], together with all supporting assumptions, (8) the forecasted number of [***] expected to be [***] of the Joint Venture Company and its Subsidiaries, (9) the forecasted [***] of the Joint Venture Company and its Subsidiaries, (10) such other business activities as shall be necessary and appropriate and (11) any [***] Approved Business Plan with respect any of the above.

(B) Annual Budgets. Each Proposed Business Plan shall include a fixed budget (the "**Annual Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' [***] are proposed to be made for [***], and a [***] for the Joint Venture Company's and each of its Subsidiaries' [***], subject to the Proposed Business Plan becoming an Approved Business Plan in accordance with Section 11.2(D). The Annual Budget may include (1) a budget for [***], which shall set forth in detail the amount of funds expected to be required for [***] and for [***], (2) a budget for any [***], which shall set forth in detail the

amount of funds expected to be required for [***] and for [***] for any [***] included in the Proposed Business Plan and (3) another budget, which shall set forth in detail the amount of funds expected to be required for any other purpose of the Joint Venture Company consistent with its Certificate and Section 1.4, and in each case including provision [***], each as necessary to effectuate the applicable Proposed Business Plan. Any Proposed Business Plan approved in accordance with Section 11.2(D) (as may be amended pursuant to Section 11.2(E)) shall include [***].

(C) Participation in the Development of the Proposed Business Plan. In preparing the Proposed Business Plan, the Site Manager and the Lead Controller shall be advised by the Manufacturing Committee.

(D) Submission of Proposed Business Plan for Approval by Board of Managers. The Site Manager and the Lead Controller shall submit the Proposed Business Plan to the Board of Managers [***]. The Board of Managers shall review the Proposed Business Plan, including the Annual Budget included in such Proposed Business Plan.

(1) If the Proposed Business Plan receives the approval of the Board of Managers, such Proposed Business Plan shall be approved (the "**Undisputed Approved Business Plan**"); *provided*, *however*, that the most recently adopted Undisputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

(2) If the Board of Managers fails to approve the Proposed Business Plan within thirty (30) days of the submission of such Proposed Business Plan to the Board of Managers, then each Member may, within twenty (20) days after the earlier of the end of such thirty (30)-day period or the date on which the Board of Managers rejects the Proposed Business Plan, submit its own proposed business plan (a "**Member Business Plan**") to the Board of Managers for approval. If, within twenty (20) days after the submission of a Member Business Plan, the Board of Managers approves any Member Business Plan or any other Proposed Business Plan, such Member Business Plan or other Proposed Business Plan shall become an Undisputed Approved Business Plan. If the Board of Managers fails to approve any Member Business Plan or other Proposed Business Plan within such twenty (20)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member Business Plan or any other Proposed Business Plan, such Member Business Plan or other Proposed Business Plan, as applicable, shall be an Undisputed Approved Business Plan. Subject to compliance with the limitations set forth in paragraph (3) below, if such referral does not result in an agreement on a Member Business Plan or any other Proposed Business Plan within ten (10) days of such referral, then the Member Business Plan with the [***], if any, shall be deemed to be the then-adopted Approved Business Plan (such Approved Business Plan, a "**Disputed Approved Business Plan**"); *provided* that, except as contemplated by paragraph (3) below, such Annual Budget set forth in any Disputed Approved Business Plan shall not be inconsistent with the [***] Schedule; and *provided further* that the most recently adopted Disputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

(3) The [***] Schedule, which sets forth the [***] timing for the [***]s, is attached hereto as Schedule 1. The [***] Schedule shall not be amended or modified without the unanimous written consent of the Members; *provided*, *however*, that, if a Member's Economic Interest is at least [***] percent ([***]%), such Member may submit a Member Business Plan that includes an Annual Budget providing for capital expenditures relating to the [***] and [***] with [***] for a [***] that deviates from the [***] Schedule.

(E) Modification of Approved Business Plan.

(1) Each Member, the Site Manager or the Lead Controller shall have the right from time to time to request that the Board of Managers review the Joint Venture Company's and its Subsidiaries' operating results and business prospects, the progress to date of the Joint Venture Company's and its Subsidiaries' [***] capital projects, any changes in the requirements for such projects, and the then-current market conditions for the Joint Venture Products, to consider whether the then-effective Approved Business Plan should be amended.

(2) In the event that any material milestone set forth in, or any other material provision of, the Approved Business Plan is not achieved or is achieved earlier than contemplated under the Approved Business Plan, or the occurrence of any event having a material effect on the assets, business, operations, earnings, prospects, properties or condition (financial or otherwise) of the Joint Venture Company or its Subsidiaries, each Member, the Site Manager or the Lead Controller shall have the right to require that the then-effective Approved Business Plan be reviewed by the Board of Managers to consider whether the then-effective Approved Business Plan should be amended.

(3) Upon such request or requirement pursuant to Sections 11.2(E)(1) or (2), the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the then-effective Approved Business Plan and determine whether such amendment is necessary or appropriate. If the Board of Managers approves such amendment to the Approved Business Plan in accordance with Section 6.3(A)(11), such amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement the amended Approved Business Plan as promptly as commercially practicable; *provided*, *however*, that any failure of the Board of Managers to approve any amendment to the Approved Business Plan shall, subject to Section 11.2(E)(4), result in the continuation of such Approved Business Plan without the proposed amendment.

(4) In the event a Member wishes to propose amendments to the Approved Business Plan for any reason or the Board of Managers fails to approve an amendment to an Approved Business Plan under Section 11.2(E)(3), either Member may submit a proposed amendment to the Approved Business Plan (a "**Member Plan Amendment**") to the Board of Managers (with a copy delivered to the other Member) for approval. If a Member submits a Member Plan Amendment, the other Member shall have twenty (20) days to present an alternative Member Plan Amendment. If, within

thirty (30) days after such twenty (20)-day period, the Board of Managers approves any Member Plan Amendment, such Member Plan Amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. If the Board of Managers fails to approve a Member Plan Amendment within such thirty (30)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member Plan Amendment, such Member Plan Amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Site Manager shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member Plan Amendment within ten (10) days of such referral, then the Member Plan Amendment with the [***] for the remainder of the then-current Fiscal Year (or the Member Plan Amendment, if there is only one) shall be deemed to be an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be a Disputed Approved Business Plan), and the Site Manager shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. Except as contemplated by Section 11.2(D)(3), the Annual Budget (or portion thereof for the remainder of the then-current Fiscal Year) shall not be inconsistent with the [***] Schedule.

11.3 Expenditures. All operating expenditures and all capital expenditures of the Joint Venture Company and its Subsidiaries shall be made in accordance with the [***] Budget, the [***] Budget or the Annual Budget, as applicable, set forth in the applicable Approved Business Plan (each as may be modified or updated in accordance with this Article 11) for the Fiscal Year in which such expenditures are made.

11.4 Fab Criteria. Notwithstanding anything to the contrary in this Agreement, no Approved Business Plan may, without the unanimous consent of the Members, [***].

11.5 Quarterly Business Plan. At least fifteen (15) days prior to the end of each Fiscal Quarter, a quarterly business plan addressing at least the next six (6) full Fiscal Quarters on a rolling basis (which shall be consistent in all material respects with the then-effective Approved Business Plan) shall be prepared by the officers of the Joint Venture Company in a manner consistent with the Joint Venture Company's financial statements and Modified GAAP and reviewed and approved by the Site Manager and the Lead Controller.

11.6 Operating Plan.

(A) The Joint Venture Company shall prepare and update an operating plan on a monthly basis (the "**Operating Plan**"). The Operating Plan shall contain a [***], [***] and [***].

(1) The [***] shall address (1) Joint Venture Products [***] by the Joint Venture Company and its Subsidiaries during the [***] (which shall be derived

from the [***] developed by the [***]), (2) [***] of [***] during the applicable [***], (3) target [***] during the [***], (4) Joint Venture [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(2) The [***] shall address (1) strategy and capability for [***] by the Joint Venture Company, its Subsidiaries, and subcontractors during the [***] (which shall be derived from the [***] developed by the [***]), (2) [***] of [***] during the [***], (3) target [***] by [***] during the [***], (4) [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(3) The [***] shall address (1) strategy and capability for [***] by the Joint Venture Company, its Subsidiaries and subcontractors during the [***] (which shall be derived from the [***] developed by the [***]), (2) [***] of [***] during the [***], (3) [***] during the [***], (4) [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(4) The Joint Venture Company shall prepare a report on a monthly basis, which report will include information on the operations of the Joint Venture Company, its Subsidiaries and its subcontractors in respect of the topics addressed in the Operating Plan (the "**Monthly Operating Report**").

(B) Participation in the Development of the Operating Plan. The Operating Plan, unless otherwise determined by the Board of Managers, shall incorporate Micron's Process of Record and Model of Record, as amended from time to time by Micron, which shall be made available to the Joint Venture Company by Micron Singapore.

11.7 Use of Member Names. Except as may be expressly provided in the Joint Venture Documents, nothing in this Agreement shall be construed as conferring on the Joint Venture Company, any Subsidiary of the Joint Venture Company or either Member the right to use in advertising, publicity, marketing or other promotional activities any name, trade name, trademark, servicemark or other designation, or any derivation thereof, of the Members (in the case of a Member, the other Member).

11.8 Insurance. The Joint Venture Company shall at all times be covered by insurance of the types and in the amounts set forth on Schedule 2 hereto. Such insurance coverage may be provided through the coverage under one or more insurance policies maintained by either Member or their Relatives.

ARTICLE 12.
TRANSFER RESTRICTIONS

12.1 Restrictions on Transfer. No Member may, directly or indirectly, by operation of law or otherwise, sell, assign or transfer or otherwise encumber (whether by pledge or otherwise), or create a class of tracking stock or other derivative security in respect of (each of the foregoing, a "**Transfer**") all or any portion of its Interest in the Joint Venture Company or any of its Subsidiaries or any Member Note, or any interest therein, and the Joint Venture Company and its Subsidiaries shall not recognize any Transfer of a Member's Interest in the Joint Venture Company or any of its Subsidiaries or any Member Note, other than a Transfer

permitted in accordance with Sections 12.2, 12.4(A), 12.4(B) and 12.5. Neither (A) a Transfer of securities issued by a Member nor (B) a Parent Change of Control or a Member Change of Control shall constitute a Transfer prohibited by this Section 12.1; *provided*, *however*, that in the event of a Parent Change of Control or a Member Change of Control, the provisions of Section 13.1(A)(7)(ii) shall apply.

12.2 Permitted Transfers. Notwithstanding the restrictions on Transfer set forth in Section 12.1, a Member may Transfer all, but not less than all, of its Interest in the Joint Venture Company and any Member Note (including the right to receive any accrued interest thereon) to a Wholly-Owned Subsidiary of such Member or any Wholly-Owned Subsidiary of such Member's Parent, in either case, that is established, organized or incorporated in Singapore, *provided* that, (i) while such Wholly-Owned Subsidiary holds such Interest or any Member Note it remains a Wholly-Owned Subsidiary of the original Member, (ii) such transferring Member shall remain liable for its Subsidiary's failure to perform the obligations associated with such transferred Interest (including the obligations set forth in this Agreement), and (iii) prior to the effectiveness of any permitted Transfer, the transferring Member shall deliver to the Board of Managers and all of the other Members of the Joint Venture Company the following:

(A) a certificate of the transferring Member that the Transfer will not, and could not reasonably be expected to, cause an adverse effect on the Joint Venture Company or any of its Subsidiaries or the non-transferring Member, including any adverse effect on, or resulting loss of, any of the Intellectual Property Rights of the Joint Venture Company or any of its Subsidiaries;

(B) evidence reasonably satisfactory to the other Member that all of the following conditions have been satisfied:

(1) the transferring Member and its Affiliates (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture unless the material breach by such Applicable Joint Venture or Wholly-Owned Subsidiary of any Applicable Joint Venture was caused, directly or indirectly, by the transferring Member) are not in material breach of any provision of this Agreement or any agreement with the Joint Venture Company or any of its Subsidiaries (collectively, the "**Affiliate Agreements**");

(2) the transferee of the Member's Interest or any Member Note is financially capable of carrying out the obligations and paying any liabilities of the transferring Member pursuant to this Agreement and the Affiliate Agreements;

(3) notwithstanding the continuing liability of the transferring Member described above, the transferee has agreed in writing to assume all of the obligations of the transferring Member relating to the transferred Interest or any Member Note, including the obligations set forth in this Agreement and any Affiliate Agreement it properly assumes;

(4) the transferee executes and becomes a party to the Confidentiality Agreement;

(5) the Transfer will not result in material adverse tax consequences to the Joint Venture Company or to the other Member (unless the Member engaging in such Transfer reimburses the other Member or the Joint Venture Company, as the case may be, for such tax consequences, which reimbursement and payment shall not affect the Capital Contributions of the Members);

(6) the Transfer will not result in a Triggering Event, or in an event or condition that with the giving of notice or the passage of time or both would constitute a breach or default, by either the transferring Member or the transferee, under this Agreement or any of the Affiliate Agreements; and

(7) the Parent or Relative of the transferring Member shall have, and shall have caused each of its Relatives to have, amended any Applicable Joint Venture Agreements to which the Parent or Relative is a party in order to add the transferee as a Relative under such Applicable Joint Venture Agreement.

(C) Upon a Transfer permitted under this Section 12.2 becoming effective and with effect on and after the date that the permitted Transfer becomes effective:

(1) the transferring Member shall cease (a) to be a partner or Member of the Joint Venture Company, and (b) to be entitled to any rights under this Agreement in respect of the transferred Interest (including, without limitation, the right to receive a return of any Capital Contribution or entitlement to distributions from the Joint Venture Company); and

(2) the Wholly-Owned Subsidiary of such Member or such Member's Parent, as applicable, in whom the transferred Interest is vested shall (a) become a partner or Member of the Joint Venture Company in substitution for the transferring Member, and (b) be entitled to all of the transferring Member's rights under this Agreement in respect of the transferred Interest (including, without limitation, the right to receive a return of any Capital Contribution or entitlement to distributions from the Joint Venture Company).

12.3 Additional Members. No Person shall be admitted to the Joint Venture Company as a partner or Member other than Intel Singapore, Micron Singapore or any substitute Member for Intel Singapore or Micron Singapore (as provided in Section 12.2).

12.4 Certain Purchases.

(A) Purchase of Additional Interest. During the period commencing on the two (2)-year anniversary of the U.S. Effective Date and at any time that Intel Singapore is a Member and its Economic Interest (without taking into account in the Committed Capital of such Member or in the aggregate Committed Capital of all Members, the outstanding amount under any Mandatory Note payable to Intel Singapore) is less than 51% but at least 49%, Intel Singapore shall have the right to purchase from Micron Singapore, and upon the exercise of such right Micron Singapore shall sell to Intel Singapore, an Interest representing a percentage (the "**Option Percent**") of the Members' aggregate Interests necessary to bring Intel Singapore's Economic Interest to 51% (computed by shifting from the Capital Contribution Balance (and Committed Capital) of Micron Singapore to the Capital Contribution Balance (and

Committed Capital) of Intel Singapore the minimum sum necessary to raise the Economic Interest of Intel to 51%). The purchase price to be paid by Intel Singapore for such Interest shall be an amount in cash equal to the [***] Value; *provided*, *however*, that the purchase price shall in no event be (i) lower than an amount equal to the Option Percent [***] by the [***] of the [***] of the Joint Venture Company and its Subsidiaries (the "**Floor Amount**"), or (ii) greater than the product of [***], multiplied by the Floor Amount (the "**Cap Amount**"). If the Purchase Value is determined to be lower than the Floor Amount, or greater than the Cap Amount, then the purchase price shall be an amount equal to the Floor Amount or the Cap Amount, respectively. Intel Singapore may exercise this purchase right by delivering a written notice of its intent to exercise to the Joint Venture Company and Micron Singapore. The closing of the purchase and sale shall take place on a date agreed to by the Joint Venture Company, Micron Singapore and Intel Singapore, but in no event later than thirty (30) days following the date the notice is delivered. Such closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Joint Venture Company, Micron Singapore and Intel Singapore may mutually determine. At the closing, the Joint Venture Company shall record in its books and records the contemplated shift in the Members' Capital Contribution Balances, and the appropriate changes to the Capital Accounts of the Members, and Intel Singapore shall pay to Micron Singapore the purchase price for such Option Percent by wire transfer of immediately available funds.

(B) Purchase of Additional Interest to Effect a Change in Consolidating Member. Subject to the terms and conditions of this Section, Intel Singapore shall have the right to effect a Change in Consolidating Member. Intel Singapore may exercise this right to effect a Change in Consolidating Member by delivering a written notice of its intent to exercise to the Joint Venture Company and Micron Singapore; *provided*, *however*, that the exercise of such right by Intel Singapore shall be subject to the prior written consent of Micron Singapore. Upon the exercise of such right, Intel Singapore shall purchase from Micron Singapore, and Micron Singapore shall sell to Intel Singapore, an Interest representing a percentage (the "**Consolidating Option Percent**") of the Members' aggregate Interests necessary to bring Intel Singapore's Economic Interest to 51% (computed by shifting from the Capital Contribution Balance (and Committed Capital) of Micron Singapore to the Capital Contribution Balance (and Committed Capital) of Intel Singapore the minimum sum necessary to raise the Economic Interest of Intel Singapore to 51%). The purchase price to be paid by Intel Singapore for such Interest shall be an amount in cash equal to the [***] Value; *provided*, *however*, that the purchase price shall in no event be lower than an amount equal to the Consolidating Option Percent [***] by the [***] of the [***] of the Joint Venture Company and its Subsidiaries (the "**Consolidating Floor Amount**"). If the Purchase Value is determined to be lower than the Consolidating Floor Amount, then the purchase price shall be an amount equal to the Consolidating Floor Amount. The closing of the purchase and sale shall take place on a date agreed to by the Joint Venture Company, Micron Singapore and Intel Singapore, but in no event later than thirty (30) days following the date the notice is delivered. Such closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Joint Venture Company, Micron Singapore and Intel Singapore may mutually determine. At the closing, the Joint Venture Company shall record in its books and records the contemplated shift in the Members' Capital Contribution Balances, and the appropriate changes to the Capital Accounts of the Members, and

Intel Singapore shall pay to Micron Singapore the purchase price for such Consolidating Option Percent by wire transfer of immediately available funds.

12.5 Purchase of Remaining Interest.

(A) If the Economic Interest of a Member (the "**Minority Member**") drops to ten percent (10%) or less and remains at or below ten percent (10%) for more than six (6) consecutive months, the other Member or a Subsidiary thereof (such other Member or Subsidiary thereof, the "**Majority Member**") shall have the option, exercisable at any time prior to the day that is six (6) months prior to the end of the U.S. Initial Term, to purchase all of the remaining Interest of, and outstanding Member Notes payable to, the Minority Member at a cash purchase price equal to the Option Price. The Majority Member may exercise this purchase option by delivering a written notice of its intent to exercise to the Minority Member. The closing of the purchase and sale of the Minority Member's remaining Interest and any outstanding Member Notes held by the Minority Member (the "**Minority Closing**") shall take place as of the last day of the U.S. Fiscal Month in which the notice is delivered (unless such notice is delivered within the last ten (10) days of the end of a U.S. Fiscal Month, in which case the Minority Closing shall take place on the last day of the first full U.S. Fiscal Month thereafter). Such Minority Closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Majority Member and the Minority Member may mutually determine. At the Minority Closing, (i) the Minority Member shall transfer its remaining Interest in the Joint Venture Company and outstanding Member Notes held by the Minority Member to the Majority Member, free and clear of any liens or encumbrances, (ii) the Majority Member shall pay the Minority Member the Minority Closing Price by wire transfer of immediately available funds and (iii) the Minority Member shall deliver to the Majority Member such instrument of conveyance as the Majority Member reasonably requests.

(B) Upon the Minority Closing, the Majority Member shall pay to the Minority Member a sum (the "**Minority Closing Price**") equal to the [***] of (i) the [***] of (a) the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of the last day of the U.S. Fiscal Month immediately prior to the Minority Closing, [***] (b) the [***] of all [***] of the Joint Venture Company and its Subsidiaries as of the last day of the U.S. Fiscal Month immediately prior to the Minority Closing (excluding, however, any liabilities with respect to Member Notes), and (ii) the Economic Interest of the Minority Member at the time the option provided for in Section 12.5(A) is exercised. Within five (5) Business Days after the month-end balance sheet (prepared in accordance with Modified GAAP consistently applied) as of the date of the Minority Closing becomes available, the Minority Closing Price shall be recalculated using the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of such date and the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of such date (excluding any liabilities with respect to Member Notes) (such recalculated sum, the "**Option Price**"). If the Option Price is greater than the Minority Closing Price, the Majority Member shall deliver the difference to the Minority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation. If the Option Price is less than the Minority Closing Price, the Minority Member shall refund the difference to the Majority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation.

(C) Upon the Minority Closing and with effect on and after the date that of the Minority Closing:

(1) the Minority Member shall cease (a) to be a partner or Member of the Joint Venture Company, and (b) to be entitled to any rights under this Agreement in respect of the transferred Interest (including, without limitation, the right to receive a return of any Capital Contribution or entitlement to distributions from the Joint Venture Company); and

(2) the Majority Member shall become entitled to all of the Minority Member's rights under this Agreement in respect of the transferred Interest (including, without limitation, the right to receive a return of any Capital Contribution or entitlement to distributions from the Joint Venture Company).

(D) Upon an election of the Majority Member to purchase the Minority Member's remaining Interest and the outstanding Member Notes held by such Minority Member pursuant to Section 12.5(A), if the Minority Member is Micron Singapore, then Micron Singapore may, at its option, cause to continue in effect any existing supply agreements it has with the Joint Venture Company or any Subsidiary of the Joint Venture Company for [***] from the Minority Closing with the same amounts and at the same delivery schedule, pricing and terms as are in effect on the date of the Minority Closing. Such quantity will be [***] for the first year and then will [***] of such fixed quantity per Fiscal Quarter to [***] over the next [***] Fiscal Quarters. The Members will work together in good faith so that such supply arrangements minimize disruption to the business of the Joint Venture Company and the Members and to maintain, subject to such decline in amount, substantially the same supply of custom Products and substantially the same composition of types of Products as Micron Singapore had obtained from the Joint Venture Company immediately prior to the Minority Closing.

ARTICLE 13.

TRIGGERING EVENTS; DISSOLUTION AND LIQUIDATION

13.1 Triggering Events.

(A) Upon the occurrence of any of the following events (each, a "**Triggering Event**"), the Joint Venture Company shall, in contemplation of a dissolution of the Joint Venture Company, commence winding up activities in accordance with this Article 13 and any other covenants unanimously agreed in writing by the Members, whether or not the event would cause a dissolution under the Act:

(1) the expiration of the Term in accordance with Section 1.3;

(2) the unanimous agreement in writing of the Members to wind up the Joint Venture Company;

(3) the election by a Member with a Percentage Interest of at least [***]% to wind up the affairs of the Joint Venture Company (which election shall not

require the consent of the other Member), upon delivery of written notice of such election to the Joint Venture Company and the other Member;

(4) Intentionally Omitted.

(5) the occurrence of any other event that, under the Act, makes it unlawful, impossible or impractical to carry on the business of the Joint Venture Company;

(6) the election by a Member to wind up the affairs of the Joint Venture Company upon the Bankruptcy, dissolution or liquidation of the other Member;

(7) the election by a Member to wind up the affairs of the Joint Venture Company, if (i) the Joint Venture Company ceases operations for more than [***], (ii) the other Member's Parent undergoes a Parent Change of Control or (iii) such other Member undergoes a Member Change of Control; or

(8) Intentionally Omitted;

(9) Intentionally Omitted;

(10) Intentionally Omitted; or

(11) the election of a Member by written notice to the Joint Venture Company and the other Member to wind up the affairs of the Joint Venture Company.

(B) Intentionally Omitted.

13.2 Determination of [***] Value. Upon the occurrence of a Triggering Event, the Members shall promptly proceed to determine the [***] Value of each Facility or Domestic Facilities Company. The Members and the Joint Venture Company shall use reasonable efforts to cause the determination to be made as promptly as practicable, but not later than the [***] Determination Date, in the case of a Triggering Event under Section 13.1(A)(1), not later than such Triggering Event.

13.3 No Withdrawal. No Member shall have any right to withdraw from the Joint Venture Company. No event that would constitute a withdrawal of a Member under the Act shall in any way be deemed to be a withdrawal under this Agreement or cause a dissolution of the Joint Venture Company.

13.4 Intentionally Omitted.

13.5 Intentionally Omitted.

13.6 Intentionally Omitted.

13.7 Intentionally Omitted.

13.8 Intentionally Omitted.

13.9 Intentionally Omitted.

13.10 Intentionally Omitted.

13.11 Auction of Remaining Assets. As soon as reasonably practicable following the sale or other disposition of the assets of the Joint Venture Company pursuant to any procedures unanimously agreed in writing by the Members, but not later than [***] ([***]) days after the U.S. Buyout Determination Date, the Board of Managers shall cause the Joint Venture Company and its Subsidiaries to sell, in an auction process reasonably designed to maximize the price, all of the assets, other than cash, remaining in the Joint Venture Company and its Subsidiaries (the "**Remaining Assets**"). Each of the Members shall be entitled to participate as a bidder in the auction. The Remaining Assets shall be sold to the Person providing the best bid.

13.12 Voluntary Dissolution; Mandatory Dissolution.

(A) Following the conclusion of any sale conducted in accordance with Section 13.11, the Members may commence to voluntarily wind up and dissolve the affairs of the Joint Venture Company by adopting a unanimous resolution to such effect. Upon the adoption of a resolution by the Members to voluntarily wind up and dissolve the affairs of the Joint Venture Company, a liquidator shall be appointed in accordance with the provisions of Applicable Law to commence the winding up and dissolution of the Joint Venture Company.

(B) Upon the occurrence of a Bankruptcy of the Joint Venture Company and the making of an order for the dissolution and winding up of the Joint Venture Company by the Singapore High Court, the Joint Venture Company shall become subject to dissolution and winding up in accordance with the Act.

(C) To the extent not inconsistent with the foregoing and with Applicable Law, all covenants and obligations in this Agreement shall continue in full force and effect until such time as the Joint Venture Company's property has been distributed pursuant to this Section 13.12 and Section 13.13 and the Joint Venture Company has been dissolved in accordance with Applicable Law.

13.13 Liquidation. (A) (i) Upon the occurrence of a Triggering Event and following the completion of (a) the consummation of any sale of assets in accordance with any covenants unanimously agreed in writing by the Members, (b) the auction of assets contemplated by Section 13.11 (the date on which all events contemplated in (a) and (b) have been completed, the "**Liquidation Date**"), (c) a resolution of the Members to voluntarily wind up and dissolve the affairs of the Joint Venture Company, if applicable, and (d) the appointment of a liquidator in accordance with Applicable Law, or (ii) the making of an order for winding up of the Joint Venture Company by the Singapore High Court, the liquidator shall liquidate the Joint Venture Company's remaining assets and terminate its business in accordance with this Section 13.13 and subject always to Applicable Law.

(B) Subject to Applicable Law, at least ten (10) days prior to the first distribution of assets or other proceeds of the liquidation under Section 13.13(C) (which distribution shall occur no earlier than the Liquidation Date), (i) any Member that is the Funding Member with respect to any Member Note outstanding at such time may, by delivering written

notice to the Joint Venture Company, convert the outstanding principal balance of and accrued interest on such Member Note into a Capital Contribution and (ii) any Member that is the Non-Funding Member with respect to any Member Note outstanding at such time may, by delivering written notice to the Joint Venture Company, cause the Joint Venture Company to convert the outstanding principal balance of and accrued interest on any such Member Note into a Capital Contribution. Any conversion of a Member Note made pursuant to this Section 13.13(B) shall be effective prior to the commencement of the first liquidating distribution pursuant to Section 13.13(C).

(C) The assets and other proceeds of the liquidation, as and when available, shall be applied and distributed in accordance with Applicable Law and, to the fullest extent legally permissible, in the following order and priority:

(1) *first*, to the payment of all debts and liabilities of the Joint Venture Company, excluding debts and liabilities to Members and former Members;

(2) *second*, to the setting up of reserves that the liquidating committee deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Joint Venture Company;

(3) *third*, to the payment of all debts and liabilities to Members and any former Members; and

(4) *fourth*, to the Members in accordance with Section 5.1.

(D) In the event that, at the time of a liquidating distribution in accordance with Section 13.13(C), there exists any outstanding obligation of a Member to the Joint Venture Company (including, but not limited to, any amounts owed by such Member to the Joint Venture Company as a result of purchasing assets from the Joint Venture Company in accordance with any covenants unanimously agreed in writing by the Members that remains unpaid), all amounts to be distributed to such Member under Section 13.13(C) shall be subject to offset, and no distribution shall be made to such Member until after all such obligations have been satisfied in full.

13.14 Supply Agreements. If a Triggering Event has occurred, then, from and after the consummation of a sale of assets by the Joint Venture Company in accordance with any covenants unanimously agreed in writing by the Members, each Member shall enter into a supply agreement with the other Member, on substantially the same terms (including amount, delivery schedule, pricing terms and other terms) as the Supply Agreement that the Member entered into with the Joint Venture Company as of the Effective Date, under which each Member agrees to provide the other Member with its Sharing Interest on the date of the Triggering Event of the output of each type of Product from each of the Facilities purchased by that Member. The quantity (determined based on the three (3)-month period immediately preceding the effectiveness of the contemplated Supply Agreement) of Product, measured in 300 millimeter diameter equivalents that a Member shall be obligated to provide from each Facility under that Member's supply agreement will be fixed for the first year after the consummation of a sale of assets by the Joint Venture Company in accordance with any covenants unanimously agreed in

writing by the Members and then will decline by [***] ([***]) of such fixed quantity per Fiscal Quarter to [***] over the next [***] Fiscal Quarters. The Members will work together in good faith so that such supply agreements minimize disruption to the business of the Members and to maintain, subject to such decline in amount, substantially the same supply of custom Products and substantially the same composition of types of Products as the Members had obtained from the Joint Venture Company immediately prior to the date of the Triggering Event.

13.15 Employees.

(A) Each Member shall be free to offer employment to or continue the employment of any or all of the Joint Venture Company employees whose primary place of employment is at a Fab owned or leased by the Joint Venture Company or by a Domestic Facilities Company ("**Acquired Asset Employees**") if such Fab or the equity of such Domestic Facilities Company ("**Acquired Asset**") is purchased by that Member;

(B) Within fifteen (15) Business Days prior to the date a Fab owned or leased by the Joint Venture Company or a Domestic Facilities Company is purchased by a Member, the Joint Venture Company shall provide, or cause to be provided, to such Member:

(1) A true and complete list of the following information for each of the Acquired Asset Employees ("**Acquired Asset Employee Information**"): name; gender; gross monthly salary; title; name of employer; date of commencement of employment; name of employer; and whether the employee holds a managerial, executive or confidential position; and

(2) At the Member's request, reasonable access to meet with and interview, the Acquired Asset Employees, at times and locations to be mutually agreement upon.

(C) The following provisions apply in the case where the Acquired Asset is a Fab owned or leased by the Joint Venture Company:

(1) At least fifteen (15) Business Days before the closing of the applicable purchase ("**Acquired Asset Closing**"), the acquiring Member shall provide to the Joint Venture Company a list of the Acquired Asset Employees to whom offers of employment will be made by the Member ("**Shortlisted Employees**"), such employment to be effective conditional upon the Acquired Asset Closing.

(2) Within fifteen (15) Business Days following receipt of the list of Shortlisted Employees, the Joint Venture Company shall terminate the employment contracts of all Acquired Asset Employees so as to enable the Shortlisted Employees to accept the acquiring Member's offer of employment.

(3) If the employment of any Acquired Asset Employee who is not a Shortlisted Employee is found or alleged to have been transferred to the acquiring Member pursuant to any applicable laws as a consequence of the Acquired Asset Closing, the acquiring Member shall be entitled (but not obligated) to terminate the employment

of such employee in accordance with the applicable laws, including observing the contractually stipulated notice period or paying salary in lieu thereof.

(D) The following provisions apply in the case where the Acquired Asset is the equity of a Domestic Facilities Company:

(1) At least fifteen (15) Business Days before the Acquired Asset Closing, the acquiring Member shall provide the Joint Venture Company with a list of the Acquired Asset Employees whose employment with the Domestic Facilities Company is to be terminated effective upon the Acquired Asset Closing ("**Affected Employees**").

(2) Within fifteen (15) Business Days following receipt of the list of Affected Employees, the Joint Venture Company shall cause the Domestic Facilities Company to terminate the employment contracts of all the Affected Employees effective upon the Acquired Asset Closing.

(3) If the employment of any Affected Employee is found or alleged not to have been terminated effective upon the Acquired Asset Closing, the acquiring Member shall be entitled (but not obligated) to cause the Domestic Facilities Company to terminate the employment of such employee in accordance with the Applicable Law, including observing the contractually stipulated notice period or paying salary in lieu thereof.

ARTICLE 14.
EXCULPATION AND INDEMNIFICATION

14.1 Exculpation. No Manager (or alternate Manager) shall be liable to the Joint Venture Company, any Subsidiary of the Joint Venture Company or the Members (in their capacities as members of the Joint Venture Company) for monetary damages for breach of fiduciary duty as a Manager or otherwise liable, responsible or accountable to the Joint Venture Company, any Subsidiary of the Joint Venture Company or the Members (in their capacities as members of the Joint Venture Company) for monetary damages or otherwise for any acts performed, or for any failure to act, except that this provision shall not eliminate or limit the liability of a Manager (or alternate Manager) (i) for acts or omissions that involve willful or intentional misconduct or gross negligence or (ii) for any transaction from which the Manager (or alternate Manager) received any improper personal benefit.

14.2 Indemnification.

(A) The Joint Venture Company shall, to the fullest extent permitted by Applicable Law, indemnify, defend and hold harmless (1) each Manager and alternate Manager and (2) the Site Manager, the Lead Controller and any other officer or site manager of the Joint Venture Company (each, an "**Executive Indemnified Party**" and collectively with the Managers, the "**Indemnified Party**"), against any losses, claims, damages or liabilities to which such Indemnified Party may become subject in connection with any matter arising out of or incidental to any act performed or omitted to be performed by any such Indemnified Party in connection with this Agreement or the Joint Venture Company's or any of its Subsidiaries' business or affairs; *provided*, *however*, that in the case of an Executive Indemnified Party, such

act or omission was taken in good faith and was reasonably believed by the Executive Indemnified Party, as applicable, to be within the scope of authority granted to such Executive Indemnified Party; and *provided further*, *however*, that in the case of any Indemnified Party such act or omission was not attributable in whole or in part to the fraud, bad faith, willful misconduct or gross negligence of such Indemnified Party. If an Indemnified Party becomes involved in any capacity in any action, proceeding or investigation in connection with any matter arising out of or in connection with this Agreement or the Joint Venture Company's or any of its Subsidiaries' business or affairs, the Joint Venture Company shall reimburse such Indemnified Party for its reasonable legal and other reasonable out-of-pocket expenses (including the cost of any investigation and preparation) as they are incurred in connection therewith, *provided* that such Indemnified Party shall promptly repay to the Joint Venture Company the amount of any such reimbursed expenses paid to it if it shall ultimately be determined that such Indemnified Party was not entitled to be indemnified by the Joint Venture Company in connection with such action, proceeding or investigation. If for any reason (other than the fraud, bad faith, willful misconduct or gross negligence of such Indemnified Party) the foregoing indemnification is unavailable to such Indemnified Party, or insufficient to hold it harmless, then the Joint Venture Company shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, claim, damage, liability or expense in such proportion as is appropriate to reflect the relative benefits received by the Joint Venture Company or any of its Subsidiaries on the one hand and such Indemnified Party on the other hand or, if such allocation is not permitted by Applicable Law, to reflect not only the relative benefits referred to above but also any other relevant equitable considerations. Any indemnity under this Section 14.2(A) shall be paid solely out of and to the extent of the Joint Venture Company's and its Subsidiaries' assets and shall not be a personal obligation of any Member and in no event will any Member be required or permitted, without the consent of the other Member, to contribute additional capital under Article 2 to enable the Joint Venture Company to satisfy any obligation under this Section 14.2.

(B) The provisions of this Section 14.2 shall survive for a period of two (2) years from the date of dissolution of the Joint Venture Company, *provided* that (1) if at the end of such period there are any actions, proceedings or investigations then pending, an Indemnified Party may so notify the Joint Venture Company and the Members at such time (which notice shall include a brief description of each such action, proceeding or investigation and the liabilities asserted therein) and the provisions of this Section 14.2 shall survive with respect to each such action, proceeding or investigation set forth in such notice (or any related action, proceeding or investigation based upon the same or similar claim) until such date that such action, proceeding or investigation is finally resolved and (2) the obligations of the Joint Venture Company under this Section 14.2 shall be satisfied solely out of Joint Venture Company assets, including the assets of any Subsidiary of the Joint Venture Company.

ARTICLE 15.
GOVERNMENTAL APPROVALS

15.1 Governmental Approvals. In the event that either Member takes any action contemplated by this Agreement that could reasonably be expected to result in an event or transaction, including without limitation (i) the purchase by either Member of an Interest pursuant to Sections 12.4(A), 12.4(B) or 12.5, (ii) the purchase by either Member of a Facility or Domestic Facilities Company that owns or leases such Facility pursuant to any covenants

unanimously agreed in writing by the Members, (iii) a Change of Consolidating Member, (iv) the making of a Capital Contribution, (v) the conversion of a Member Note or (vi) the creation or acquisition of interests in a Domestic Facilities Company, which event or transaction, as to each of the foregoing, would require either Member to make a filing, notification, application or any other required or requested submission under the Singapore Competition Act or any other applicable Competition Law (any such event or transaction, a "**Filing Event**" and any such filing, notification, application or any such other required or requested submission, a "**Filing**"), then:

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

(B) notwithstanding any provision to the contrary in this Agreement, a Filing Event may not occur or close until after any applicable waiting period (including any extension thereof) under the Singapore Competition Act or any other Competition Law, as applicable to such Filing Event, shall have expired or been terminated, and all approvals under antitrust regulatory Filings in any jurisdiction that shall be necessary for such Filing Event to occur or close shall have been obtained, and any applicable deadline for the occurrence or closing of such Filing Event contained in this Agreement shall be delayed, so long as both Members are proceeding diligently in accordance with this Section 15.1 to seek any such expiration, termination or approval, and so long as there are no other outstanding conditions preventing the occurrence or closing of the Filing Event;

(C) the Members shall, and shall cause any of their relevant Affiliates to:

(1) as promptly as practicable, make their respective Filings under the Singapore Competition Act or any other applicable Competition Law;

(2) promptly respond to any requests for additional information from the Competition Commission of Singapore or any other Governmental Entity;

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

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

(5) subject to Applicable Laws, use their commercially reasonable efforts to (a) take actions that are necessary to prevent the Competition Commission of Singapore or any other Governmental Entity, as the case may be, from filing an action

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

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

(D) notwithstanding anything to the contrary in this Section 15.1, nothing in this Section 15.1 shall require either Member or its respective Affiliates, or the Joint Venture Company to take any Divestiture Action; and

(E) if the Filing Event is prevented from occurring or closing as a result of any applicable Competition Laws, after exhausting all efforts permitted under this Section 15.1 to obtain the necessary approval of any applicable Governmental Entity, then the Members shall negotiate in good faith to agree upon an alternative event or transaction that would be permissible under applicable Competition Laws, and would approximate, as closely as possible, the intent and contemplated effect of the original Filing Event.

ARTICLE 16.
FORMATION OF ADDITIONAL ENTITIES

16.1 Formation of Domestic Subsidiaries. The Members agree that each Facility located in Singapore may be held through a Wholly-Owned Subsidiary of the Joint Venture Company, where such Wholly-Owned Subsidiary is established, organized or incorporated within Singapore (each, a "**Domestic Facilities Company**"). Unless the Members agree in writing otherwise, each Domestic Facilities Company shall be owned directly or indirectly by the Joint Venture Company. Each Domestic Facilities Company shall be an entity that may elect, and shall elect, to be treated as a disregarded entity or a partnership for U.S. federal income tax purposes, as appropriate. The Members agree that the charter and other organizational

documents of each Domestic Facilities Company and all contractual and other arrangements between the Joint Venture Company and such Domestic Facilities Company, and between the Members and the Domestic Facilities Company, shall have such terms and conditions as shall be necessary to achieve the purposes of the Members in entering into this Agreement and the Joint Venture Documents and to achieve as closely as practicable the same beneficial results (including with respect to Joint Venture Products produced by such Domestic Facilities Company and the pricing thereof; tax matters, financial accounting matters, assets to be distributed, and rights provided, on dissolution and liquidation; profits; losses; distributions; governance; control and the like) for the Members as would be achieved if the Facility held by such Domestic Facilities Company were held directly by the Joint Venture Company.

16.2 Intentionally Omitted.

ARTICLE 17.
DEADLOCK; OTHER DISPUTE RESOLUTION; EVENT OF DEFAULT

17.1 Deadlock. "**Deadlock**" shall occur with respect to any matter for which an affirmative vote by at least one Manager appointed by each Member is required for approval, and such matter is not approved as a result of a vote in which a majority of the Managers appointed by one Member (or the sole Manager appointed by a Member, if there is only one) have voted against the matter and a majority of the Managers appointed by the other Member (or the sole Manager appointed by the other Member, if there is only one) have voted for the matter other than an Intel Singapore Matter or a Micron Singapore Matter (a "**Tie Vote**") on a matter submitted to it at a meeting or in the form of a proposed written consent, and during the [***] period following this Tie Vote, the Board of Managers is unable or fails to break the Tie Vote (if the matter is presented in the form of a proposed written consent, the [***] period shall commence on the date that the Manager who was last to receive the proposal received it). During this [***] period, the Board of Managers shall seek in good faith to hold at least [***] ([***]) additional meetings at which it shall make a good faith effort to break the Deadlock. To the extent practicable, the Board of Managers shall seek to resolve the matter in a manner consistent with the Joint Venture Company's then-current Approved Business Plan. The additional meetings shall be held at the time and place agreed to by the Managers, or if the Managers are unable to agree, at a time and place determined by the Site Manager on at least two (2) days' written notice.

17.2 Resolution of Deadlock.

(A) If a Deadlock occurs, (i) if the matter is an Intel Singapore Matter, the matter shall be resolved in the manner specified by the Authorized Representative of Intel Singapore, whose decision shall be final and binding on the Joint Venture Company and its Subsidiaries, (ii) if the matter is a Micron Singapore Matter, the matter shall be resolved in the manner specified by the Authorized Representative of Micron Singapore, whose decision shall be final and binding on the Joint Venture Company and its Subsidiaries, and (iii) if the matter is neither an Intel Singapore Matter nor a Micron Singapore Matter, the Joint Venture Company shall (a) first submit the matter that was the subject of the Deadlock to the Authorized Representatives of the Members by providing notice of the Deadlock to the Members, and the Authorized Representatives of the Members shall then make a good faith effort to resolve the

dispute and break the Deadlock within [***] of the Members' receiving notice of the Deadlock and (b) next, if the Deadlock is still not resolved, submit the matter to the Senior Authorized Representatives for each of the Members, who shall then make a good faith effort to resolve the Deadlock within [***] of submission to the Senior Authorized Representatives. If the matter remains unresolved, then the Members shall submit the Deadlock to non-binding mediation. Either Member may initiate the non-binding meditation by providing to JAMS and the other Member a written request for mediation, setting forth the subject of the Deadlock. The Members will cooperate with JAMS and with one another in selecting a retired judge from JAMS panel of neutrals, and in scheduling the mediation proceedings. The Members covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The provisions of this Section 17.2 may be enforced by any court of competent jurisdiction, and the Member seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Member against whom enforcement is ordered.

(B) Notwithstanding the foregoing, if the Board of Managers fails to approve a specific loading plan for a given Fab, then the Members may designate the loading for such Fab in accordance with their respective Sharing Interests.

17.3 Definition of "Intel Singapore Matters." For purposes of this Agreement, "**Intel Singapore Matter**" means any matter that is unanimously agreed in writing by the Members to be an Intel Singapore Matter.

17.4 Definition of "Micron Singapore Matters." For purposes of this Agreement, "**Micron Singapore Matter**" means any matter that is unanimously agreed in writing by the Members to be a Micron Singapore Matter.

17.5 Other Dispute Resolution. In the event of any other dispute over a purported breach of this Agreement (a "**Dispute**"), the Members shall endeavor to settle, through their respective designees to the Board of Managers, the Dispute. All Disputes arising under this Agreement that are not resolved by the Board of Managers shall be resolved as follows: the Joint Venture Company shall first submit the matter to the Authorized Representatives of the Members by providing notice of the Dispute to the Members. The Authorized Representatives of the Members shall then make a good faith effort to resolve the Dispute. If they are unable to resolve the Dispute within [***] of receiving notice of the Dispute, the matter shall then be submitted to the Senior Authorized Representatives of the Members, who shall then make a good faith effort to resolve the Dispute. If the Dispute cannot be resolved within [***] of submission of the matter to the Senior Authorized Representatives of the Members, then a civil action with respect to the Dispute may be commenced, but only after the matter has been submitted to JAMS for mediation as contemplated by Section 17.6.

17.6 Mediation. If there is a Dispute, either Member may commence mediation by providing to JAMS and the other Member a written request for mediation, setting forth the subject of the Dispute and the relief requested. The Members will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in scheduling the mediation proceedings. The Members covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Members

or their Relatives or their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Members or their Relatives, *provided* that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Member may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither Member may commence a civil action with respect to a Dispute until after the completion of the initial mediation session, or [***] after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the Members so desire. The provisions of this Section may be enforced by any court of competent jurisdiction, and the Member seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Member against whom enforcement is ordered.

17.7 Event of Default.

(A) An "**Event of Default**" shall occur if a Member (the "**Defaulting Member**") fails to perform any material obligation under this Agreement or any of the Joint Venture Documents to which it is a party.

(B) Upon the occurrence of an Event of Default, the Joint Venture Company and the other Member (the "**Non-Defaulting Member**") shall each have the right to deliver to the Defaulting Member notice (a "**Notice of Default**"). The Notice of Default shall set forth the nature of the obligations that the Defaulting Member has failed to perform. If the Defaulting Member fails to cure the Event of Default within the Cure Period, the Non-Defaulting Member may take any of the actions set forth in Section 17.7(C). For purposes hereof, "**Cure Period**" means a period commencing on the date that the Notice of Default is provided by the Non-Defaulting Member or the Joint Venture Company and ending (i) thirty (30) days after Notice of Default is so provided, or (ii) in the case of any obligation (other than an obligation to pay money) which cannot reasonably be cured within such thirty (30) day period, such longer period not to exceed one hundred twenty (120) days after the Notice of Default as is necessary to effect a cure of the Event of Default, so long as the Defaulting Member diligently attempts to effect a cure throughout such period.

(C) Upon the occurrence of an Event of Default and the expiration of the Cure Period set forth in Section 17.7(B), the Non-Defaulting Member may request the Joint Venture Company to pursue all legal and equitable rights and remedies against the Defaulting Member available to it (subject to any limitations in the agreement containing the obligation that was not performed) or may pursue its own legal and equitable rights and remedies against the Defaulting Member (subject to any limitations in the agreement containing the obligation that was not performed); *provided, however*, that the Non-Defaulting Member may not seek dissolution of the Joint Venture Company under such circumstances. The Defaulting Member shall pay all costs, including attorneys' fees, incurred by the Joint Venture Company and the other Member in pursuing such legal remedies.

17.8 Specific Performance. The Parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the parties agree that any damages

available at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate preliminary or permanent injunctive relief may be applied for and granted in connection therewith. Except as otherwise limited by this Agreement, such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a party may have under this Agreement; *provided*, *however*, that in no event shall the dissolution of the Joint Venture Company be permitted unless it is expressly permitted by Section 13.1(A).

17.9 Tax Matters. Notwithstanding anything in this Article 17 to the contrary, the resolution of disputes concerning tax matters governed by Section 10.6(B) shall be governed by Section 10.6(B) of this Agreement.

ARTICLE 18.
MISCELLANEOUS PROVISIONS

18.1 Notices. All notices to the Joint Venture Company shall be sent addressed to the Site Manager at the Joint Venture Company's principal place of business. All notices to a Member shall be sent addressed to such Member at the address as may be specified by the Member from time to time in a notice to the Joint Venture Company, *provided* that the initial notice address for each Member is as follows:

(A) if to Intel Singapore:

Intel Technology Asia Pte Ltd
#06-01/02 StarHub Centre
Singapore 229469
Attention: Intel Legal Department
Facsimile: +65 62131018

with a copy to:

Intel Corporation
2200 Mission College Blvd.
Mailstop SC4-203
Santa Clara, CA 95054
Attention: General Counsel
Facsimile: (408) 653-8050

and

Intel Corporation
2200 Mission College Blvd.
Mailstop RN6-46
Santa Clara, CA 95054
Attention: [***]
Facsimile: [***]

(B) if to Micron Singapore:

Micron Semiconductor Asia Pte. Ltd.
990 Bendemeer Rd.
Singapore 339942
Attention: Jen Kwong Hwa
Telephone: +65 62903355
Facsimile: +65 62903690

with a copy to:

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

All notices to a Manager shall be sent addressed to such Manager at the address as may be specified by the Manager from time to time in a notice to the Joint Venture Company. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

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

18.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of each party hereto. Except as otherwise specifically provided in this Agreement, neither this Agreement nor any right or obligation hereunder may be assigned or delegated in whole or in part to any other Person.

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

18.5 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

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

18.7 Entire Agreement. This Agreement, together with the Appendices, Exhibits and Schedules hereto and the agreements (including the Confidentiality Agreement) and instruments expressly provided for herein, together with any written agreements entered into contemporaneously with this Agreement, as all of the foregoing may be amended from time to time, constitute the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof. For the avoidance of doubt, the Members confirm and agree that the mutual rights and duties of the Members and the Joint Venture Company shall not be determined by the provisions set forth in paragraphs 1 through 11 of the first schedule of the Act.

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

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

18.10 Further Assurances. Each Member shall execute such deeds, assignments, endorsements, evidences of transfer and other instruments and documents and shall give such further assurances as shall be necessary to perform such Member’s obligations hereunder. The obligations of the Members set forth in this Section 18.10 shall survive the termination of this Agreement.

18.11 Consequential Damages. No party shall be liable to any other party under any legal theory for indirect, special, incidental, consequential or punitive damages, or any damages for loss of profits, revenue or business, even if such party has been advised of the possibility of such damages.

18.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate

appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.

18.13 Confidential Information.

(A) The Members shall abide by the terms of that certain Mutual Confidentiality Agreement between Micron, Intel and the Joint Venture Company dated as of the Effective Date, and as may be amended or replaced from time to time (the "**Confidentiality Agreement**"), which agreement is incorporated herein by reference with respect to the Joint Venture Company, its Subsidiaries and the Facilities Companies and the activities of the Joint Venture Company, its Subsidiaries and the Facilities Companies. The Members agree that the Confidentiality Agreement shall govern the confidentiality and non-disclosure obligations between the Members respecting the information provided or disclosed pursuant to this Agreement as such information relates to the Joint Venture Company, its Subsidiaries and the Facilities Companies and their activities.

(B) If the Confidentiality Agreement is terminated or expires and is not replaced, such Confidentiality Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the term of this Agreement or until a new Confidentiality Agreement is entered into between the Members. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

(C) The terms and conditions of this Agreement shall be considered "**Confidential Information**" under the Confidentiality Agreement for which each of Micron and Intel is considered a "Receiving Party" under such Confidentiality Agreement.

18.14 Certain Interpretive Matters.

(A) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each of the Schedules will apply only to the corresponding Section or subsection of this Agreement, (3) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, except as modified by the definition of "Modified GAAP," (4) words in the singular include the plural and visa versa, (5) the term "**including**" means "including without limitation," (6) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof, (7) capitalized terms followed by phrases such as "**under any Applicable Joint Venture Agreement**" or "**pursuant to any Applicable Joint Venture Agreement**" shall have the respective meanings ascribed to such terms under the Applicable Joint Venture Agreement, and (8) capitalized terms with "**U.S.**" added at the beginning are references to such capitalized terms under the Applicable Joint Venture Agreement of the U.S. Joint Venture Company. Unless otherwise stated, all

references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**$**" or dollar amounts, or "**%**" or percent or percentages, shall be to precise amounts and not rounded up or down. All references to "**day**" or "**days**" will mean calendar days. All references to matters "**unanimously agreed in writing by the Members**" refer to other written agreements that remain effective that were entered into on or prior to the date hereof or written agreements entered into by the Members at some later date.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned being all of the Members of IM Flash Singapore, LLP organized under the Act, have executed this Agreement as of the date and year first above written.

INTEL TECHNOLOGY ASIA PTE LTD

By: /s/ Ravi Jacob

Name: Ravi Jacob

Title: Treasurer

MICRON SEMICONDUCTOR ASIA PTE. LTD.

By: /s/ Alice Koh

Name: Alice Koh

Title: Authorized Signatory

THIS IS THE SIGNATURE PAGE FOR THE
LIMITED LIABILITY PARTNERSHIP AGREEMENT OF
IM FLASH SINGAPORE, LLP
ENTERED INTO BY AND BETWEEN
INTEL TECHNOLOGY ASIA PTE LTD AND
MICRON SEMICONDUCTOR ASIA PTE. LTD.

APPENDIX A

IM FLASH SINGAPORE, LLP

DEFINITIONS

"[***] **Fab**" means a Fab that has [***] construction, Tool Install and equipment and process qualification, including all related facilities necessary to commence production of semiconductor devices and such production output has reached a minimum level of [***]% of its intended high volume output level (as measured in Wafer Starts per week).

"**Accountants**" shall have the meaning set forth in Section 10.4(C) of this Agreement.

"**Accumulated Distributions Account**" shall have the meaning set forth in Section 5.1(C) of this Agreement.

"**Acquired Asset**" shall have the meaning set forth in Section 13.15(A) of this Agreement.

"**Acquired Asset Closing**" shall have the meaning set forth in Section 13.15(C)(1) of this Agreement.

"**Acquired Asset Employees**" shall have the meaning set forth in Section 13.15(A) of this Agreement.

"**ACRA**" means the Accounting and Corporate Regulatory Authority as authorized under the Accounting and Corporate Regulatory Authority Act of 2004 (Act 3 of 2004) of Singapore.

"**Act**" shall have the meaning set forth in Section 1.1 of this Agreement.

"**Additional Capital Contributions**" shall have the meaning set forth in Section 2.3(C) of this Agreement.

"**Adjusted Contribution Amount**" means, after a Change in Consolidating Member, an amount equal to the sum of (i) the Consolidating Member's *Pro Rata* Share of a given Additional Capital Contribution and (ii) the portion of the Former Consolidating Member's *Pro Rata* Share of such Additional Capital Contribution that such Former Consolidating Member is not [***].

"**Affiliate**" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

"**Affiliate Agreements**" shall have the meaning set forth in Section 12.2(B)(1) of this Agreement.

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

"**Annual Budget**" shall have the meaning set forth in Section 11.2(B) of this Agreement.

"**Applicable Fiscal Quarter**" means Micron Singapore's first fiscal quarter in its [***] fiscal year.

"**Applicable Joint Venture**" or "**Applicable Joint Ventures**" means the entities listed on Schedule 5, as such Schedule may be amended from time to time by the unanimous written agreement of the Members.

"**Applicable Joint Venture Agreements**" means the agreements listed on Schedule 5, as such Schedule may be amended from time to time by the unanimous written agreement of the Members.

"**Applicable Law**" means any laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity and the common law of the Republic of Singapore, to the extent applicable to matters covered under this Agreement.

"**Appointing Member**" shall have the meaning set forth in Section 6.2(B) of this Agreement.

"**Appraiser**" means two nationally recognized investment banking firms (one to be selected by each Member) and a manufacturing equipment reseller (mutually agreed upon by the two investment banking firms).

"**Approved Business Plan**" means either an Undisputed Approved Business Plan or a Disputed Approved Business Plan, as in effect from time to time.

"**Assembly Plan**" means an assembly plan set forth in the Operating Plan, as more particularly described in Section 11.6(A)(2) of this Agreement.

"**Associated Assets**" means, with respect to any Fab, the Joint Venture Equipment, inventory and other tangible personal property owned by the Joint Venture Company or any of its Subsidiaries and located at that Fab on the date of the Triggering Event or thereafter and all rights and obligations pursuant to contracts, permits, governmental approvals and governmental concessions and incentives associated with such Fab, Joint Venture Equipment, inventory or other tangible personal property, including all liabilities exclusively associated with such Fab, except for assets sold or disposed of in any of the following transactions that occurs after the Triggering Event: (a) the sale of inventory in the ordinary course; (b) the sale or other disposition of obsolete or surplus equipment or other assets to third parties in the ordinary course in arm's-length transactions; and (c) the sale of any other asset with the approval of the Board of Managers. Any transfer of Associated Assets under this Agreement shall include the assumption by the transferee of the liabilities exclusively associated with such Fab.

"**Authorized Representative**" means (i) with respect to Intel Singapore, the general manager of Intel's memory products group, and (ii) with respect to Micron Singapore, the general manager of Micron's memory products group.

"**Bankruptcy**" means (i) the entry of a decree or order for relief of the Person by a court of competent jurisdiction in any involuntary case involving the Person under any bankruptcy,

insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, judicial manager, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Person or for any substantial part of the Person's assets or property; (iii) the ordering of the judicial management, winding up or liquidation of the Person's affairs; (iv) the filing with respect to the Person of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to Applicable Law); (v) the commencement by the Person of a voluntary case under any bankruptcy, judicial management, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Person to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, judicial manager, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Person or for any substantial part of the Person's assets or property; (vii) the making by the Person of any general assignment for the benefit of creditors; or (viii) the failure by the Person generally to pay its debts as such debts become due.

"**Board of Managers**" shall have the meaning set forth in Section 6.1 of this Agreement.

"**Book**" shall have the meaning set forth in Appendix B to this Agreement.

"**Business Day**" means a day that is not a Saturday, Sunday or any other day on which commercial banks are not open for business in the State of New York or Singapore.

"**Buyout Determination Date**" means the U.S. Buyout Determination Date.

"**[***] Value**" means the amount determined as follows: each Member shall select its own Appraiser and the two Appraisers shall mutually select a third Appraiser. Each Appraiser shall conduct its own independent appraisal to determine the [***] Value, and the average of the two (2) determinations that are the closest in value shall be the [***] Value. With respect to any Facility or any Domestic Facilities Company, the [***] of the applicable Facility or [***] of the applicable Domestic Facilities Company, as the case may be, as of the date [***]. The Appraisers shall be instructed to consider all factors that in their professional opinion may affect [***] of the applicable Facility or Domestic Facilities Company, as the case may be, but in any event [***] Member or the Joint Venture Company.

"**Cap Amount**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Capital Account**" shall have the meaning set forth in Section 4.1 of this Agreement.

"**Capital Contribution**" means, for each Member, any amount contributed or deemed to be contributed to the Joint Venture Company as a capital contribution, including (without duplication of any capital contribution in clauses (i) - (v)):

(i) the Initial Capital Contribution made by such Member;

(ii) any Additional Capital Contributions (including any contributions made under Section 2.4) made by such Member;

(iii) any portion of a Make-Up Contribution made by such Member equal to the amount of the principal balance of the Member Note repaid with the Make-Up Contribution;

(iv) any other capital contributions made by such Member to the Joint Venture Company as the Members may unanimously agree in writing or as provided in the Joint Venture Documents; and

(v) any capital contribution deemed made by such Member upon conversion, contribution or transfer to the Joint Venture Company of a Member Note.

"**Capital Contribution Balance**" means, for each Member, the sum of all Capital Contributions made to the Joint Venture Company by such Member, minus the sum of any capital contributions returned or refunded to such Member pursuant to Article 2 or Article 3. As of the Effective Date, each Member shall, for purposes of determining its Capital Contribution Balance, receive full credit for its Initial Capital Contribution.

"**Certificate**" shall have the meaning set forth in Section 1.1 of this Agreement.

"**Chairman**" shall have the meaning set forth in Section 6.2(C) of this Agreement.

"**Change in Consolidating Member**" means a change in the Member that is required under GAAP to consolidate the financial results of the Joint Venture Company with its financial results.

"**Committed Capital**" means, for a Member, on a given date, the sum of (1) the Capital Contribution Balance of such Member through such date and (2) the principal and accrued interest (*provided*, that for purposes of this definition, accrued interest shall be accrued only on the first day of each U.S. Fiscal Month) owed to such Member under any Member Debt Financing outstanding on such date.

"**Competition Commission of Singapore**" means the body known as the Competition Commission of Singapore which is established under section 3 of the Singapore Competition Act.

"**Competition Laws**" means all Applicable Laws issued by a domestic or foreign Governmental Entity that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

"**Competitively Sensitive Information**" means any information, in whatever form, that has not been made publicly available relating to products and services that a Member or its Relatives sell, in competition with the other Member or its Relatives, at the execution of this Agreement or thereafter during the Term including, without limitation, NAND Flash Memory Product, to the extent such information of the Member or its Relatives selling such products and services includes price or any element of price, customer terms or conditions of sale, Member/Relative-specific costs, volume of sales, output (but not including the Joint Venture Company's output), or bid terms of the foregoing type and such similar information as is

specifically identified electronically or in writing to the Joint Venture Company by a Member or its Relatives, as competitively sensitive information.

"**Confidentiality Agreement**" shall have the meaning set forth in Section 18.13 of this Agreement.

"**Conforming Wafer**" means a NAND Flash Memory Wafer with greater than [***] percent ([***]%) functional die, or that is otherwise accepted by a Member.

"**Consolidating Floor Amount**" shall have the meaning set forth in Section 12.4(B) of this Agreement.

"**Consolidating Member**" means the Member that is required to consolidate the financial results of the Joint Venture Company with its financial results under GAAP.

"**Consolidating Option Percent**" shall have the meaning set forth in Section 12.4(B) of this Agreement.

"**Continuing Mandatory Notes**" shall have the meaning set forth in Section 3.1(E) of this Agreement.

"**Cure Period**" shall have the meaning set forth in Section 17.7(B) of this Agreement.

"**Deadlock**" shall have the meaning set forth in Section 17.1 of this Agreement.

"**Defaulting Member**" shall have the meaning set forth in Section 17.7(A) of this Agreement.

"**DGCL**" means the Delaware General Corporation Law (Del. Code Ann. tit. 8 §§101 et seq.).

"**Dispute**" shall have the meaning set forth in Section 17.5 of this Agreement.

"**Disputed Approved Business Plan**" shall have the meaning set forth in Section 11.2(D)(2) of this Agreement.

"**Distribution Entitlement**" means with respect to any proposed distribution under Section 5.1(A)(4) to a Member, the amount, if any, equal to the Member's Sharing Interest (as such Sharing Interest is determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)) multiplied by the aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3) but including the amount to be distributed to such Member in such proposed distribution under Section 5.1(A)(4)).

"**Divestiture Action**" shall have the meaning set forth in Section 15.1(C)(5) of this Agreement.

"**Domestic Facilities Company**" shall have the meaning set forth in Section 16.1 of this Agreement.

"**DRAM**" has the meaning set forth in that certain [***] Agreement, dated [***], between Intel and Micron.

"**Economic Interest**" means, for each Member, a percentage determined from time to time by dividing the Committed Capital of such Member at the time of determination by the aggregate Committed Capital of all Members at the time of determination.

"**Effective Date**" shall have the meaning set forth in the preamble of this Agreement.

"**Event of Default**" shall have the meaning set forth in Section 17.7(A) of this Agreement.

"**Executive Indemnified Party**" shall have the meaning set forth in Section 14.2(A) of this Agreement.

"**[***] Budget**" shall have the meaning set forth in Section 11.1(B) of this Agreement.

"**[***] Capital Contribution**" shall mean an Additional Capital Contribution of funds required by the Joint Venture Company as set forth in the [***] Budget of the Initial Business Plan, as it may be modified in accordance with Section 11.1(C)(2).

"**Fab**" means a manufacturing facility for manufacturing NAND Flash Memory Wafers and shall include the related automated material handling system (AMHS), process tools, and support tools/fixtures used for manufacturing NAND Flash Memory Wafers in the cleanroom, sub fab and all related laboratories. It also includes all non-clean support equipment and gas and chemical delivery systems required to support the production tools in the Fab.

"**Fab Criteria**" means a Fab capable of producing a minimum of [***] and a maximum of [***] Wafer Starts per week.

"**Facility**" means a Fab and its Associated Assets that are owned or leased by the Joint Venture Company or a Domestic Facilities Company.

"**Filing**" shall have the meaning set forth in Section 15.1 of this Agreement.

"**Filing Event**" shall have the meaning set forth in Section 15.1 of this Agreement.

"**First Singapore Fab**" means the initial Fab that is, or is to be, located in Singapore and owned or leased by the Joint Venture Company as contemplated by the Initial Business Plan existing on the date of this Agreement.

"**Fiscal Month**" means the fiscal month of the Joint Venture Company as determined by the Board of Managers from time to time, and, initially, the period commensurate with Micron Singapore's fiscal month; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Month, the Fiscal Month shall, at such Member's discretion, change to be commensurate with the Fiscal Month of such Member at such time as such Member may thereafter specify.

"**Fiscal Quarter**" means the fiscal quarter of the Joint Venture Company as determined by the Board of Managers from time to time, and, initially, the period commensurate with Micron Singapore's fiscal quarter; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Quarter, the Fiscal Year shall, at such Member's discretion, change to be commensurate with the Fiscal Quarter of such Member at such time as such Member may thereafter specify.

"**Fiscal Year**" means the fiscal year of the Joint Venture Company as determined by the Board of Managers from time to time, and corresponding to the fiscal year of the Member having the greater Percentage Interest, initially, the period commencing as of the Effective Date and ending August 31, 2007 and thereafter a fifty-two (52) or fifty-three (53) week period ending on the Thursday closest to August 31 of each year; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Year, the Fiscal Year shall, at such Member's discretion, change to be commensurate with the Fiscal Year of such Member at such time as such Member may thereafter specify.

"**Flash Memory Integrated Circuit**" means a non-volatile memory integrated circuit that contains memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more transistors that have a floating gate, charge-trapping regions or any other functionally equivalent structure utilizing one or more different charge levels (including binary or multi-level cell structures) with or without any on-chip control, I/O and other support circuitry.

"**Floor Amount**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Former Consolidating Member**" means the Member that was required to consolidate the financial results of the Joint Venture Company with its financial results under GAAP immediately prior to a Change in Consolidating Member.

"**Funding Member**" shall have the meaning set forth in Section 3.1(A) of this Agreement.

"**Funding Member Portion**" means that portion of the amount of a Funding Member's Additional Capital Contribution that is deemed to be a loan (rather than a Capital Contribution) as part of a Member Debt Financing, which amount is determined by [***] the Funding Member's [***] of such Additional Capital Contribution (whether or not contributed in full) [***] is the amount actually loaned to the Joint Venture Company by the Funding Member in respect of the Shortfall Amount and the [***] is the Non-Funding Member's [***] of the Additional Capital Contribution.

"**GAAP**" means United States generally accepted accounting principles as in effect from time to time.

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

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Indemnified Party**" shall have the meaning set forth in Section 14.2(A) of this Agreement.

"**Independent Member**" shall have the meaning set forth in Section 6.3(B)(1) of this Agreement.

"**Initial Business Plan**" shall have the meaning set forth in Section 11.1(A) of this Agreement.

"**Initial Capital Contribution**" means the total amount of money initially contributed to the Joint Venture Company by a Member pursuant to Section 2.1, as set forth on Appendix D.

"**Initial Period**" shall have the meaning set forth in Section 11.1(A) of this Agreement.

"**Initial Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Intel**" means Intel Corporation, a Delaware corporation.

"**Intel Initial Contributed Assets**" means the total amount of money contributed to the Joint Venture Company by Intel Singapore as of the Effective Date, as described on Appendix D.

"**Intel Maximum Incremental Capital Amount**" means $[***]. Such amount does not include any funds contributed as part of Intel Singapore's Initial Capital Contribution.

"**Intel Personnel Secondment Agreement**" means that certain Intel Personnel Secondment Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Intel, as amended.

"**Intel** [***]" has the meaning set forth in that certain [***] Agreement, dated [***], between Intel and Micron.

"**Intel Singapore**" shall have the meaning set forth in the preamble of this Agreement.

"**Intel Singapore Matter**" shall have the meaning set forth in Section 17.3 of this Agreement.

"**Intellectual Property Rights**" shall have the meaning set forth in Section 10.5(B)(6) of this Agreement.

"**Interest**" means the ownership interest of a Member in the Joint Venture Company, including any and all benefits to which a Member may be entitled under this Agreement and the obligations of a Member under this Agreement, including, without limitation, the right to vote or to participate in the management of the Joint Venture Company, and the right to information concerning the business and affairs of the Joint Venture Company and its Subsidiaries.

"**Interested Member**" shall have the meaning set forth in Section 6.3(B)(1) of this Agreement.

"**Interested Member Transaction**" shall have the meaning set forth in Section 6.3(B)(2) of this Agreement.

"**IRAS**" shall have the meaning set forth in Section 10.7 of this Agreement.

"**Issuance Date**" shall have the meaning set forth in Section 3.1(C) of this Agreement.

"**ITA**" shall have the meaning set forth in Section 10.7 of this Agreement.

"**JAMS**" means Judicial Arbitration and Mediation Services.

"**Joint Development Committee**" shall have the meaning ascribed to such term in the Joint Development Program Agreement, dated as of the U.S. Effective Date, between Micron and Intel.

"**Joint Venture Company**" shall have the meaning set forth in preamble of this Agreement.

"**Joint Venture Documents**" means the documents, instruments and certificates entered into by the Members on the date hereof in connection with this Agreement.

"**Joint Venture Equipment**" means all of the personal property, equipment and tangible assets owned by the Joint Venture Company or any of its Subsidiaries.

"**Joint Venture Products**" means all NAND Flash Memory Products and any other memory products that the Joint Venture Company and its Subsidiaries shall produce.

"**Joint Venture Reportable Event**" shall have the meaning set forth in Section 10.5(B) of this Agreement.

"**Lead Controller**" shall have the meaning set forth in Section 8.3(A) of this Agreement.

"**Lehi Fab**" means the Fab to be built out by the U.S. Joint Venture Company or one of its Subsidiaries at Lehi, Utah.

"**[***]**" means the [***] in effect from time to time (as reported in the [***]).

"**Liquidation Date**" shall have the meaning set forth in Section 13.13(A) of this Agreement.

"**Loan Amount**" means [***] (1) the [***] of (a) the Non-Funding Member's full *Pro Rata Share* of an Additional Capital Contribution, [***] (b) a [***] is the amount of the Additional Capital Contribution actually contributed by the Funding Member and the [***] is the Funding Member's [***] of such Additional Capital Contribution and (2) the amount of such Additional Capital Contribution actually contributed by the Non-Funding Member.

"**Majority Member**" shall have the meaning set forth in Section 12.5(A) of this Agreement.

"**Make-Up Contribution**" means a Capital Contribution made by a Non-Funding Member in respect of a Shortfall Amount (but not including any interest thereon).

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

"**Mandatory Equalization Note**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Mandatory Member Debt Financing**" means Member Debt Financing made in accordance with Section 3.1 of this Agreement.

"**Mandatory Notes**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Mandatory Shortfall Note**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Manufacturing Committee**" means a manufacturing committee established by the unanimous written agreement of the Parents.

"**Manufacturing Plan**" means a manufacturing plan set forth in the Operating Plan, as described more particularly in Section 11.6(A)(1) of this Agreement.

"**Maximum Incremental Capital Amount**" means $[***]. Such amount does not include any funds contributed as Initial Capital Contributions.

"**Member**" or "**Members**" shall have the meaning set forth in the preamble of this Agreement.

"**Member Business Plan**" shall have the meaning set forth in Section 11.2(D)(2) of this Agreement.

"**Member Change of Control**" means any consolidation, merger, recapitalization, transaction, series of transactions, liquidation or other extraordinary transaction after which the U.S. Member that is a Relative of a Member owns, directly or indirectly, less than 100% of the voting power of all voting securities of such Member.

"**Member Debt Financing**" as of any date shall mean all loans to the Joint Venture Company under Article 3 of this Agreement.

"**Member [***] Budget**" shall have the meaning set forth in Section 11.1(C)(2)(a)(ii) of this Agreement.

"**Member [***] Budget**" shall have the meaning set forth in Section 11.1(C)(2)(b)(ii) of this Agreement.

"**Member Notes**" means any promissory notes issued under Article 3 of this Agreement, including a Mandatory Shortfall Note, Mandatory Equalization Note, Continuing Mandatory Note, Optional [***] Shortfall Note, Optional [***] Equalization Note or Optional Other Shortfall Note outstanding pursuant to the terms of this Agreement.

"**Member Plan Amendment**" shall have the meaning set forth in Section 11.2(E)(4) of this Agreement.

"**Member Reportable Events**" shall have the meaning set forth in Section 10.5(A) of this Agreement.

"**Micron**" means Micron Technology, Inc., a Delaware Corporation.

"**Micron Initial Contributed Assets**" means the total amount of money contributed to the Joint Venture Company by Micron Singapore as of the Effective Date, as described on Appendix D.

"**Micron Maximum Incremental Capital Amount**" means $1,734,000,000.00. Such amount does not include any funds contributed as part of Micron Singapore's Initial Capital Contribution.

"**Micron Personnel Secondment Agreement**" means that certain Micron Personnel Secondment Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Micron, as amended.

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

"**Micron Singapore Matter**" shall have the meaning set forth in Section 17.4 of this Agreement.

"**Minority Closing**" shall have the meaning set forth in Section 12.5(A) of this Agreement.

"**Minority Closing Price**" shall have the meaning set forth in Section 12.5(B) of this Agreement.

"**Minority Member**" shall have the meaning sent forth in Section 12.5(A) of this Agreement.

"**Model of Record**" or "**MOR**" means a representation of the POR and TOR for use in determining the number of tools required to produce a specific number of semiconductor wafers. The MOR includes assumptions used to model overall tool throughput and productivity as well as assumptions on process yield.

"**Modified GAAP**" means United States generally accepted accounting principles as in effect from time to time, except that: (i) stock-related expenses (including stock options, restricted stock, stock appreciation rights, restricted stock units, stock purchase programs or any award based on equity of Micron Singapore or Intel Singapore or their respective Parents)

associated with the seconded individuals to the Joint Venture Company will not be recorded or disclosed in the financial statements of the Joint Venture Company; and (ii) the value of any asset contributed or otherwise transferred to the Joint Venture Company from a Member shall be the value as agreed upon by the Members at the time of the contribution or transfer, as applicable, and, if such asset is to be depreciated or amortized under GAAP, the useful life and method of depreciation or amortization for such assets shall be determined by applying the accounting policies used by the Joint Venture Company for like assets.

"**Monthly Flash Report**" means operating performance metrics reasonably acceptable to each Member for the most recent month.

"**Monthly Operating Report**" shall have the meaning set forth in Section 11.6(A)(4) of this Agreement.

"**NAND Flash Memory Die**" means a discrete integrated circuit die, wherein such die includes at least one NAND Flash Memory Integrated Circuit and such die is designed, developed, marketed and used primarily as a non-volatile memory die.

"**NAND Flash Memory Die Package**" means a discrete integrated circuit package for a NAND Flash Memory Die, including TSOP, COB, BOC, BGA and FBGA or other type package, wherein such package contains only one or more NAND Flash Memory Die but no other die.

"**NAND Flash Memory Integrated Circuit**" means a Flash Memory Integrated Circuit wherein the memory cells included in the Flash Memory Integrated Circuit are arranged in groups of serially connected memory cells (each such group of serially connected memory cells called a "string") in which the drain of each memory cell of a string (other than the first memory cell in the string) is connected in series to the source of another memory cell in such string, the gate of each memory cell in such string is directly accessible, and the drain of the uppermost bit of such string is coupled to the bitline of the memory array.

"**NAND Flash Memory Product**" means any NAND Flash Memory Wafer, NAND Flash Memory Die or NAND Flash Memory Die Package.

"**NAND Flash Memory Wafer**" means a prime wafer that has been processed to the point of containing multiple NAND Flash Memory Die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor die.

"**Net Book Value**" means, with respect to (i) any assets, the value thereof, net of accumulated depreciation, amortization and other adjustments, as would be included in a consolidated balance sheet of the entity owning such assets prepared in accordance with Modified GAAP, (ii) any liabilities, the amount thereof as would be included in a consolidated balance sheet of the entity having the liabilities prepared in accordance with Modified GAAP and (iii) any equity security of a Domestic Facilities Company or other entity, (a) the value of the assets of such entity, net of accumulated depreciation, amortization or other adjustments, as would be included in a consolidated balance sheet of the entity prepared in accordance with Modified GAAP, minus the amount of the liabilities of such entity, as would be included in a consolidated balance sheet of such entity prepared in accordance with Modified GAAP,

multiplied by (b) a percentage equal to the percentage of the equity of such entity represented by such equity security.

"**[***]**" means any Fab that is, or is to be, owned or leased by the Joint Venture Company or any of its Subsidiaries other than the [***].

"**[***] Budget**" shall have the meaning set forth in Section 11.1(B).

"**[***] Capital Contribution**" shall mean any Additional Capital Contribution to be made by the Members, as contemplated by an Approved Business Plan, to make the [***] an Operational Fab, but only in the event that the [***] for the [***] is reasonably expected to begin before [***].

"[***]" means the first [***].

"**Non-Defaulting Member**" shall have the meaning set forth in Section 17.7(B) of this Agreement.

"**Non-Funding Member**" shall be the Member that is determined not to be the Funding Member in accordance with Section 3.1(A) of this Agreement.

"**Notice of Default**" shall have the meaning set forth in Section 17.7(B) of this Agreement.

"**Operating Plan**" shall have the meaning set forth in Section 11.6(A) of this Agreement.

"**Operational Fab**" means a Fab that has completed construction, Tool Install and equipment and process qualification, including all related facilities necessary to commence production of semiconductor devices and such production output has reached a minimum level of [***]% of its intended high volume output level (as measured in [***]).

"**Option Percent**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Option Price**" shall have the meaning set forth in Section 12.5(B) of this Agreement.

"**Optional [***] Equalization Note**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional [***] Financing**" shall have the meaning set forth in Section 3.2(A) of this Agreement.

"**Optional [***] Loan Amount**" shall have the meaning set forth in Section 3.2(A) of this Agreement.

"**Optional [***] Notes**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional [***] Shortfall Note**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional Other Financing**" shall have the meaning set forth in Section 3.3(A) of this Agreement.

"**Optional Other Shortfall Note**" shall have the meaning set forth in Section 3.3(B) of this Agreement.

"**Other Capital Contributions**" shall have the meaning set forth in Section 2.3(C) of this Agreement.

"**Parent**" means Micron, with respect to Micron Singapore, and Intel, with respect to Intel Singapore.

"**Parent Change of Control**" means (i) any consolidation, merger, recapitalization, liquidation or other extraordinary transaction involving a Parent pursuant to which such Parent's stockholders immediately prior to such consolidation, merger, recapitalization, liquidation or other extraordinary transaction own, immediately after such consolidation, merger, recapitalization, liquidation or other extraordinary transaction securities representing less than 50% of the combined voting power of all voting securities of the surviving entity; (ii) any transaction or series of related transactions as a result of which securities representing 50% or more of the combined voting power of all voting securities of such Parent are sold, conveyed, transferred, assigned or pledged, either directly or indirectly, to persons other than such Parent's stockholders immediately prior to such transaction or series of transactions; or (iii) the sale, conveyance, transfer or assignment, either directly or indirectly, of all or substantially all of the assets of such Parent, in one transaction or a series of related transactions, to a person that does not control, is not controlled by and is not under common control with such Parent.

"**Percentage Interest**" means, at any time of determination, with respect to any Member, a percentage determined by dividing such Member's Capital Contribution Balance at the time of determination by the aggregate Capital Contribution Balances of all Members at the time of determination.

"**Person**" or "**Persons**" means any natural person and any corporation, firm, partnership, trust, estate, limited liability company, or other entity resulting from any form of association.

"**Precedent Partner**" shall have the meaning set forth in Section 10.7 of this Agreement.

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

"**Process of Record**" or "**POR**" means documents and/or systems that specify a series of operations that a semiconductor wafer must process through. The POR includes the process recipes and parameters at each operation for the specified Tool of Record.

"**Product**" shall have the meaning set forth in the Supply Agreements.

"**Product Design Committee**" shall have the meaning set forth in the Product Design Committee Agreement.

"**Product Design Committee Agreement**" shall have the meaning set forth in the Product Design Committee Agreement, dated as of the U.S. Effective Date, between Micron and Intel, as amended.

"**Product Design Roadmap**" shall have the meaning set forth in the Product Design Committee Agreement.

"**Proposed Business Plan**" shall have the meaning set forth in Section 11.2(A) of this Agreement.

"***Pro Rata* Share**" means the *pro rata* share of a Member determined in accordance with the Members' respective Percentage Interests at the time of the determination.

"**Purchase Value**" means an amount equal to the [***] value to Micron Singapore of the right to purchase under the terms of the Supply Agreement - Micron the output of the Joint Venture Product that will be shifted from Micron Singapore to Intel Singapore as a result of the adjustment in the Sharing Interests of the Members following the exercise of the purchase right (and the resulting shift in the Members' Capital Contribution Balances) provided for in either Section 12.4(A) or Section 12.4(B), such [***] value to be determined by a nationally recognized investment bank that is mutually agreeable to the Members.

"**Registrar**" shall have the meaning set forth in Section 1.1 of this Agreement.

"**Relative**" or "**Relatives**" means, with respect to each Member, the entities listed as such Member's Relatives on Schedule 6, as such Schedule may be amended from to time by (i) the unanimous agreement in writing of the Members or (ii) as necessary to reflect any transferee in a Transfer under any Applicable Joint Venture Agreement permitted by and in accordance with Section 12.2 of any of the Applicable Joint Venture Agreements; *provided*, *however*, that no Applicable Joint Venture will be deemed to be a Relative of either Member.

"**Remaining Assets**" shall have the meaning set forth in Section 13.11 of this Agreement.

"**Renewal Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Representative**" shall have the meaning set forth in Section 8.7(D) of this Agreement.

"**Seconded Employees**" shall have the meaning set forth in Section 9.1 of this Agreement.

"**Senior Authorized Representative**" means (i) with respect to Intel Singapore, the principal executive officer of Intel, and (ii) with respect to Micron Singapore, the principal executive officer of Micron.

"**Service Provider Related Forms**" shall have the meaning set forth in Section 9.3(A) of this Agreement.

"**Sharing Interest**" means, with respect to any Member, the percentage determined by dividing (1) such Member's Committed Capital at the time of determination, by (2) the aggregate Committed Capital of all Members at the time of determination; *provided*, *however*, that, for purposes of this definition only, Committed Capital shall be adjusted as follows:

(a) [***]% of any [***] Capital Contribution that has been made by such Member, but that was not timely made, shall be deducted from that Member's Committed Capital and added to the other Member's Committed Capital;

(b) any [***] Capital Contribution made, and any loans made or deemed made that are represented by Mandatory Notes, within the twelve months prior to the time of determination shall be deducted from Committed Capital; and

(c) any Other Capital Contributions made, and any loans made or deemed made that are represented by Optional Other Shortfall Notes shall be deducted from Committed Capital, but the exclusion under this subparagraph (c) shall apply only to such Capital Contributions and such loans made within (i) the [***] prior to the time of determination if the Capital Contribution or loan related to [***] Fab that was not a [***] at the time the contribution was due or (ii) the [***] prior to the time of determination if the Other Capital Contribution made, or loan made or deemed made that is represented by an Optional Other Shortfall Notes relates to any operating expenditure, capital expenditure or other expenditure not subject to the [***] period in the immediately preceding clause (i) and *provided*, *further*, *however*, that a Make-Up Contribution shall be deemed made on the date on which the related Shortfall Amount first arose, so that the applicable [***] and [***] periods shall apply from the date the Shortfall Amount occurred. Notwithstanding the foregoing, subparagraphs (b) and (c) of this definition shall not apply with respect to any use of the term "Sharing Interests" in connection with a distribution under Section 13.13(C)(4) of this Agreement.

"**Shortfall Amount**" means any uncontributed dollar amount of any Member's [***] of an Additional Capital Contribution.

"**Shortlisted Employees**" shall have the meaning set forth in Section 13.15(C)(1) of this Agreement.

"**Singapore Competition Act**" means the Competition Act (Cap. 50B) of Singapore.

"**Site Manager**" shall have the meaning set forth in Section 8.1(A) of this Agreement.

"**Statutory Manager**" shall have the meaning set forth in Section 6.9 of this Agreement.

"**Subsidiary**" means as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other

managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"**Supply Agreement - Intel**" means that certain Supply Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Intel Singapore, as amended.

"**Supply Agreement - Micron**" means that certain Supply Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Micron Singapore, as amended.

"**Supply Agreements**" means the Supply Agreement - Intel and the Supply Agreement - Micron.

"**Technology Committees**" means the Product Design Committee and the Joint Development Committee.

"**Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Testing Plan**" means a testing plan set forth in the Operating Plan, as more particularly described in Section 11.6(A)(3) of this Agreement.

"**Tie Vote**" shall have the meaning set forth in Section 17.1 of this Agreement.

"**Tool Install**" means the installation of the automated material handling system (AMHS), process tools, and support tools/fixtures used for semiconductor manufacturing (including sort) in the cleanroom and in all related laboratories in the Fab.

"**Tool of Record**" or "**TOR**" means the specified tool required to modify, handle, or otherwise fulfill its intended purpose in the manufacture of a semiconductor process pursuant to the POR. The TOR encompasses the tool purchase price, configuration and associated documentation required to procure, conduct acceptance testing and administer service contracts.

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

"**Treasury Regulation**" shall have the meaning set forth in Section 1.1 of Appendix B to this Agreement.

"**Triggering Event**" shall have the meaning set forth in Section 13.1(A) of this Agreement.

"**Undisputed Approved Business Plan**" shall have the meaning set forth in Section 11.2(D)(1) of this Agreement. The Initial Business Plan approved by the Members shall be deemed to be an Undisputed Approved Business Plan.

"**U.S. Joint Venture Company**" means IM Flash Technologies, LLC, a Delaware limited liability company.

"**U.S. Joint Venture Company Personnel Secondment Agreement**" means that certain IM Flash Personnel Secondment Agreement, dated as of the Effective Date, by and between the Joint Venture Company and the U.S. Joint Venture Company.

"**Wafer**" means a silicon wafer.

"**Wafer Start**" means the initial Wafer introduction to a process flow. When the context requires reference to a quantity of "Wafer Starts," such term shall be expressed in 300 millimeter diameter equivalents.

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

APPENDIX B

IM FLASH SINGAPORE, LLP

TAX MATTERS

This Appendix B is attached to and is a part of the LIMITED LIABILITY PARTNERSHIP AGREEMENT (the "**Agreement**") of **IM FLASH SINGAPORE, LLP,** a limited liability partnership organized under the laws of Singapore (the "**Joint Venture Company**"), dated as of this 27th day of February, 2007. The parties to the Agreement intend that the Joint Venture Company be classified as a partnership for federal income tax purposes pursuant to section 7701(a)(2) of the Code and the regulations thereunder. The provisions of this Appendix are intended to effect an allocation of tax items of the Joint Venture Company that are in accordance with the Members' "interests in the partnership" (i.e., the Joint Venture Company) within the meaning of Treas. Reg. § 1.704-1(b)(3) by utilizing the principles of allocation contained in Treas. Reg. § 1.704-1(b)(2)(iv) and Treas. Reg. § 1.704-2 with respect to maintenance of capital accounts and allocations, and shall be interpreted and applied accordingly. For purposes of applying the provisions of this Appendix, it shall be assumed that the Joint Venture Company satisfies the requirements of Treas. Reg. § 1.704-1(b)(2)(ii)(b)(2) and (3), notwithstanding that the Joint Venture Company does not satisfy such requirements.

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. For purposes of this Appendix, the capitalized terms listed below shall have the meanings indicated. Capitalized terms not listed below and not otherwise defined in this Appendix shall have the meanings specified in the Agreement.

"**Account Reduction Item**" means (i) any adjustment described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(4); (ii) any allocation described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(5), other than a Nonrecourse Deduction or a Member Nonrecourse Deduction; or (iii) any distribution described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(6).

"**Adjusted Capital Account Balance**" means, as of any date, a Member's Capital Account balance as of such date (and if such date is other than the last day of the taxable year of the Joint Venture Company, determined as if the taxable year of the Joint Venture Company ended on such date), taking into account all contributions made by such Member and distributions made to such Member during such taxable year and any special allocations or other adjustments required by Sections 3.2, 3.3, 3.4(A), (B), and (D), 3.5, 3.6 and 3.7, and 5.2(B) and 5.9 of this Appendix, and increased by the sum of (i) such Member's share of Joint Venture Company Minimum Gain and (ii) such Member's share of Member Nonrecourse Debt Minimum Gain, both determined after taking into account any such special allocations and other adjustments.

"**Adjusted Fair Market Value**" of an item of Joint Venture Company property means the greater of (i) the fair market value of such property as reasonably determined by the Board of

Managers (provided, that in the case of any sale of Joint Venture Company property, such amount shall be presumed to be the sales price realized by the Joint Venture Company on such sale) or (ii) the amount of any nonrecourse indebtedness to which such property is subject within the meaning of section 7701(g) of the Code.

"**Book**" means the method of accounting prescribed for compliance with the capital account maintenance rules set forth in Treas. Reg. § 1.704-1(b)(2)(iv) as reflected in Articles 1 and 2 of this Appendix, as distinguished from any accounting method which the Joint Venture Company may adopt for other purposes such as financial reporting.

"**Book Value**" means, with respect to any item of Joint Venture Company property, the book value of such property within the meaning of Treas. Reg. § 1.704-1(b)(2)(iv)(g)(3); *provided*, *however*, that if the Joint Venture Company adopts the remedial allocation method described in Treas. Reg. § 1.704-3(d) with respect to any item of Joint Venture Company property, the Book Value of such property shall be its book basis determined in accordance with Treas. Reg. § 1.704-3(d)(2).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Deemed Liquidation**" means a liquidation of the Joint Venture Company that is deemed to occur pursuant to Treas. Reg. § 1.708-1(b)(1)(iv) in the event of a termination of the Joint Venture Company pursuant to section 708(b)(1)(B) of the Code.

"**Excess Deficit Balance**" means the amount, if any, by which the balance in a Member's Capital Account as of the end of the relevant taxable year is more negative than the amount, if any, of such negative balance that such Member is treated as obligated to restore to the Joint Venture Company pursuant to Treas. Reg. § 1.704-1(b)(2)(ii)(c), Treas. Reg. § 1.704-1(b)(2)(ii)(h), Treas. Reg. § 1.704-2(g)(1), and Treas. Reg. § 1.704-2(i)(5). Solely for purposes of computing a Member's Excess Deficit Balance, such Member's Capital Account shall be reduced by the amount of any Account Reduction Items that are reasonably expected as of the end of such taxable year.

"**Excess Nonrecourse Liabilities**" means excess nonrecourse liabilities within the meaning of Treas. Reg. § 1.752-3(a)(3).

"**Joint Venture Company Minimum Gain**" means partnership minimum gain determined pursuant to Treas. Reg. § 1.704-2(d) and Section 5.3 of this Appendix.

"**Member Nonrecourse Debt**" means any "partner nonrecourse debt" as such term is defined in Treas. Reg. § 1.704-2(b)(4).

"**Member Nonrecourse Debt Minimum Gain**" means minimum gain attributable to Member Nonrecourse Debt pursuant to Treas. Reg. § 1.704-2(i)(3).

"**Member Nonrecourse Deduction**" means any item of Book loss or deduction that is a partner nonrecourse deduction within the meaning of Treas. Reg. § 1.704-2(i)(1) and (2).

"**Member Nonrecourse Distribution**" means a distribution to a Member that is allocable to a net increase in such Member's share of Member Nonrecourse Debt Minimum Gain pursuant to Treas. Reg. § 1.704-2(i)(6).

"**Nonrecourse Deduction**" means a nonrecourse deduction determined pursuant to Treas. Reg. § 1.704-2(b)(1) and Treas. Reg. § 1.704-2(c).

"**Nonrecourse Distribution**" means a distribution to a Member that is allocable to a net increase in Joint Venture Company Minimum Gain pursuant to Treas. Reg. § 1.704-2(h)(1).

"**Regulatory Allocation**" means any allocation made pursuant to Section 3.2, 3.3, 3.4 or 3.5 of this Appendix.

"**Related Person**" means, with respect to a Member, a Person that is related to such Member pursuant to Treas. Reg. § 1.752-4(b).

"**Revaluation Event**" means (i) a liquidation of the Joint Venture Company (within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g) but not including a Deemed Liquidation); (ii) a contribution of more than a de minimis amount of money or other property to the Joint Venture Company by a Member or a distribution of more than a de minimis amount of money or other property to a retiring or continuing Member where such contribution or distribution alters the Sharing Interest of any Member; or (iii) the grant of an interest in the Joint Venture Company as consideration for the provision of services to or for the benefit of the Joint Venture Company.

"**Section 705(a)(2)(B) Expenditures**" means nondeductible expenditures of the Joint Venture Company that are described in section 705(a)(2)(B) of the Code, and organization and syndication expenditures and disallowed losses to the extent that such expenditures or losses are treated as expenditures described in section 705(a)(2)(B) of the Code pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(i).

"**Section 751 Property**" means unrealized receivables and substantially appreciated inventory items within the meaning of Treas. Reg. § 1.751-1(a)(1).

"**Target Balance**" means, for any Member as of any date, the amount that would be distributable to such Member on such date pursuant to Section 5.1 of the Agreement if (i) all the assets of the Company were sold for cash equal to their respective Book Values as of such date, (ii) all liabilities of the Company (other than any liabilities under outstanding Member Notes) were paid in full (except that in the case of a nonrecourse liability, such payment would be limited to the Book Value of the asset or assets securing such liability), and (iii) all remaining cash were distributed to the Members pursuant to Section 5.1 (assuming, for this purpose, that the holders of any Member Notes have converted such Member Notes immediately prior to such distribution).

"**Tax Basis**" means, with respect to any item of Joint Venture Company property, the adjusted basis of such property as determined in accordance with the Code.

"**Treasury Regulation**" or "**Treas. Reg.**" means the temporary or final regulation(s) promulgated pursuant to the Code by the U.S. Department of the Treasury, as amended, and any successor regulation(s).

ARTICLE 2
CAPITAL ACCOUNTS

2.1 **Maintenance**.

(A) A single Capital Account shall be maintained for each Member in accordance with this Article 2.

(B) Each Member's Capital Account shall from time to time be increased by:

(i) the amount of money contributed by such Member to the Joint Venture Company in accordance with the Agreement (including the amount of any Joint Venture Company liabilities which the Member is deemed to assume as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(c), and including the principal amount paid for any Member Notes, but excluding liabilities assumed in connection with the distribution of Joint Venture Company property and excluding increases in such Member's share of Joint Venture Company liabilities pursuant to section 752 of the Code);

(ii) the fair market value of property, as reasonably determined by the Board of Managers, contributed by such Member to the Joint Venture Company (net of any liabilities secured by such property that the Joint Venture Company is considered to assume or take subject to pursuant to section 752 of the Code); and, *provided*, *further*, that nothing in this Appendix B shall be deemed to increase or limit the amount treated as a Capital Contribution for purposes other than this Appendix B;

(iii) [Reserved]; and

(iv) allocations to such Member of Joint Venture Company Book income and gain (or the amount of any item or items of income or gain included therein).

(C) Each Member's Capital Account shall from time to time be reduced by:

(i) the amount of money distributed to such Member by the Joint Venture Company (including the amount of such Member's individual liabilities which the Joint Venture Company is deemed to assume as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(c)), including the amount of any amount paid or accrued on any Member Note that is not treated as a guaranteed payment pursuant to Section 5.2 of this Appendix B;

(ii) the fair market value, as reasonably determined by the Board of Managers, of property distributed to such Member by the Joint Venture Company

(net of any liabilities secured by such property that such Member is considered to assume or take subject to pursuant to section 752 of the Code); and

(iii) allocations to such Member of Joint Venture Company Book loss and deduction (or items thereof);

(D) The Joint Venture Company shall make such other adjustments to the Capital Accounts of the Members as are necessary to comply with the provisions of Treas. Reg. § 1.704-1(b)(2)(iv).

2.2 **Revaluation of Joint Venture Company Property**.

(A) Upon the occurrence of a Revaluation Event, the Board of Managers may revalue all Joint Venture Company property (whether tangible or intangible) for Book purposes to reflect the Adjusted Fair Market Value of Joint Venture Company property immediately prior to the Revaluation Event. In the event that Joint Venture Company property is so revalued, the Capital Accounts of the Members shall be adjusted in accordance with Treas. Reg. § 1.704-1(b)(2)(iv)(f) as provided in Section 3.1 of this Appendix.

(B) Upon the distribution of Joint Venture Company property to a Member, the property to be distributed shall be revalued for Book purposes to reflect the Adjusted Fair Market Value of such property immediately prior to such distribution, and the Capital Accounts of all Members shall be adjusted in accordance with Treas. Reg. § 1.704-1(b)(2)(iv)(e).

2.3 **Transfers of Interests**. Upon the transfer of a Member's entire interest in the Joint Venture Company in accordance with Section 12.2 of the Agreement, the Capital Account of such Member shall carry over to the transferee.

ARTICLE 3
ALLOCATION OF BOOK INCOME AND LOSS

3.1 **Book Income And Loss**.

(A) The Book income or loss of the Joint Venture Company for purposes of determining allocations to the Capital Accounts of the Members shall be determined in the same manner as the determination of the Joint Venture Company's taxable income, except that (i) items that are required by section 703(a)(1) of the Code to be separately stated shall be included; (ii) items of income that are exempt from inclusion in gross income for federal income tax purposes shall be treated as Book income; (iii) Section 705(a)(2)(B) Expenditures shall be treated as deductions; (iv) items of gain, loss, depreciation, amortization, or depletion that would be computed for federal income tax purposes by reference to the Tax Basis of an item of Joint Venture Company property shall be determined by reference to the Book Value of such item of property in accordance with Section 3.1(B) hereof; and (v) the effects of upward and downward revaluations of Joint Venture Company property pursuant to Section 2.2 of this Appendix shall be treated as Book gain or loss respectively from the sale of such property.

(B) In the event that the Book Value of any item of Joint Venture Company property differs from its Tax Basis, the amount of Book depreciation, depletion, or amortization for a period with respect to such property shall be computed so as to bear the same relationship to the Book Value of such property as the depreciation, depletion, or amortization computed for tax purposes with respect to such property for such period bears to the Tax Basis of such property. If the Tax Basis of such property is zero, the Book depreciation, depletion, or amortization with respect to such property shall be computed by using a method consistent with the method that would be used for tax purposes if the Tax Basis of such property were greater than zero and the property were placed in service on the date it is acquired by the Joint Venture Company.

(C) The Book income and loss of the Joint Venture Company for any taxable year shall be allocated in such a manner as to cause the Adjusted Capital Account Balances of the Members as nearly as possible to equal their respective Target Balances as of the end of such taxable year.

3.2 **Allocation of Nonrecourse Deductions**. Notwithstanding any other provisions of the Agreement, Nonrecourse Deductions shall be allocated among the Members in proportion to their respective Sharing Interests as of the end of the taxable year in which such deductions arise.

3.3 **Allocation of Member Nonrecourse Deductions**. Notwithstanding any other provisions of the Agreement, any item of Member Nonrecourse Deduction with respect to a Member Nonrecourse Debt shall be allocated to the Member or Members who bear the economic risk loss for such Member Nonrecourse Debt in accordance with Treas. Reg. § 1.704-2(i).

3.4 **Chargebacks of Income And Gain**. Notwithstanding any other provisions of the Agreement:

(A) Joint Venture Company Minimum Gain. In the event that there is a net decrease in Joint Venture Company Minimum Gain for a taxable year of the Joint Venture Company, then before any other allocations are made for such taxable year, each Member shall be allocated items of Book income and gain for such year (and, if necessary, for subsequent years) to the extent provided by Treas. Reg. § 1.704-2(f).

(B) Member Nonrecourse Debt Minimum Gain. In the event that there is a net decrease in Member Nonrecourse Debt Minimum Gain for a taxable year of the Joint Venture Company, then after taking into account allocations pursuant to paragraph (a) immediately preceding, but before any other allocations are made for such taxable year, each Member with a share of Member Nonrecourse Debt Minimum Gain at the beginning of such year shall be allocated items of Book income and gain for such year (and, if necessary, for subsequent years) to the extent provided by Treas. Reg. § 1.704-2(i)(4).

(C) [Reserved.]

(D) Qualified Income Offset. In the event that any Member unexpectedly receives any Account Reduction Item that results in an Excess Deficit Balance at the end of any taxable year after taking into account all other allocations and adjustments under this Agreement , then items of Book income and gain for such year (and, if necessary, for subsequent years) will be reallocated to

each such Member in the amount and in the proportions needed to eliminate such Excess Deficit Balance as quickly as possible.

3.5 **Reallocation To Avoid Excess Deficit Balances**. Notwithstanding any other provisions of the Agreement, no Book loss or deduction shall be allocated to any Member to the extent that such allocation would cause or increase an Excess Deficit Balance in the Capital Account of such Member. Such Book loss or deduction shall be reallocated away from such Member and to the other Members in accordance with the Agreement, but only to the extent that such reallocation would not cause or increase Excess Deficit Balances in the Capital Accounts of such other Members.

3.6 **Corrective Allocation**. Subject to the provisions of Sections 3.2, 3.3, 3.4, and 3.5 of this Appendix, but notwithstanding any other provision of the Agreement, in the event that any Regulatory Allocation is made pursuant to this Appendix for any taxable year, then remaining Book items for such year (and, if necessary, Book items for subsequent years) shall be allocated or reallocated in such amounts and proportions as are appropriate to restore the Adjusted Capital Account Balances of the Members to the position in which such Adjusted Capital Account Balances would have been if such Regulatory Allocation had not been made. Adjustments pursuant to this Section 3.6 shall only be made if such Regulatory Allocations are not reasonably expected to be reversed with offsetting allocations in subsequent taxable years. The Members intend that the allocations of Book income and loss pursuant to this Appendix shall result in Adjusted Capital Account Balances of the Members, as of the end of each taxable year of the Joint Venture Company and after all allocations pursuant to this Appendix have been made, equaling their Target Balances. This Appendix shall be interpreted in a manner consistent with such intent.

3.7 **Other Allocations**.

(A) If during any taxable year of the Joint Venture Company there is a change in any Member's interest in the Joint Venture Company, allocations of Book income or loss for such taxable year shall take into account the varying interests of the Members in the Joint Venture Company in a manner consistent with the requirements of Section 706 of the Code and Section 5.2(B) hereof.

(B) If and to the extent that any distribution of Section 751 Property to a Member in exchange for the distributee Member's interest in property other than Section 751 Property is treated as a sale or exchange of such Section 751 Property by the Joint Venture Company pursuant to Treas. Reg. § 1.751-1(b)(2), any Book gain or loss attributable to such deemed sale or exchange shall be allocated only to Members other than the distributee Member in a manner consistent with such Treasury Regulation.

(C) If and to the extent that any distribution of property other than Section 751 Property to a Member in exchange for the distributee Member's interest in Section 751 Property is treated as a sale or exchange of such other property by the Joint Venture Company pursuant to Treas. Reg. § 1.751-1(b)(3), any Book gain or loss attributable to such deemed sale or exchange shall be allocated only to Members other than the distributee Member in a manner consistent with such Treasury Regulation.

ARTICLE 4
ALLOCATION OF TAX ITEMS

4.1 **In General**. Except as otherwise provided in this Article 4, all items of income, gain, loss, and deduction shall be allocated among the Members for federal income tax purposes in the same manner as the corresponding allocation for Book purposes.

4.2 **Section 704(c) Allocations**.

(A) In the event that the Book Value of an item of Joint Venture Company property differs from its Tax Basis, allocations of depreciation, depletion, amortization, gain, and loss with respect to such property will be made for federal income tax purposes in a manner that takes account of the variation between the Tax Basis and Book Value of such property in accordance with section 704(c)(1)(A) of the Code and Treas. Reg. § 1.704-1(b)(4)(i). The Board of Managers may select as the method for making such allocations, either the method described in Treas. Reg. § 1.704-3(c) or (d); *provided*, *however,* that the method selected for any asset shall be one that minimizes the effect of the "ceiling rule" on allocations to the Member that did not contribute such asset.

(B) For purposes of complying with Section 263A of the Code, depreciation, amortization and cost recovery deductions of the Joint Venture Company that are included in the capitalized cost of the Joint Venture Company's inventory shall be determined based on the Book Values of the Joint Venture Company's assets, and any difference between such amounts and the corresponding amounts as computed for U.S. federal income tax purposes shall be allocated separately to the Members pursuant to Section 704(c) of the Code.

4.3 **Tax Credits**. Tax credits shall be allocated among the Members in accordance with Treas. Reg. § 1.704-1(b)(4)(ii).

ARTICLE 5
OTHER TAX MATTERS

5.1 **Excess Nonrecourse Liabilities**. For the purpose of determining the Members' shares of the Joint Venture Company's Excess Nonrecourse Liabilities pursuant to Treas. Reg. §§ 1.752-3(a)(3) and 1.707-5(a)(2)(ii), and solely for such purpose, the Members' interests in profits are hereby specified to be their respective Sharing Interests.

5.2 Treatment of Loan Transactions.

(A) The Members agree that amounts outstanding under Member Notes (which for purposes of this Appendix B includes amounts outstanding under loans made pursuant to Section 2.3(H) of the Agreement) shall be treated for federal and applicable state income tax purposes as equity and not as debt for U.S. federal income tax purposes. To the extent a Non-Funding Member makes a Make-Up Contribution together with accrued interest, such interest (solely for purposes of this Appendix B) shall be treated as a capital contribution, the payment of such interest to the Funding Member on the related Member Note shall be treated as a guaranteed payment pursuant to Section 707(c) of the Code, and the deduction of the Joint Venture Company in respect of such guaranteed payment shall be specially allocated to the Non-Funding Member.

To the extent accrued interest on a Member Note has not been paid as of the end of a taxable year of the Joint Venture Company, the Members shall consult with each other to determine the appropriate income tax treatment of such accrued interest, and if they are unable to agree on such treatment the dispute resolution provisions of Section 10.6(B) shall apply.

(B) Upon a change in the Members' Sharing Interests, the Members agree that the Capital Accounts of the Members shall be adjusted so that to the greatest extent possible, but consistent with the goal of minimizing the adverse tax consequences to the Member whose interest increased (as reasonably determined by such Member)(other than adverse consequences resulting solely from receiving allocations of income or loss in accordance with its revised Sharing Interest), the Adjusted Capital Account Balances of the Members will equal their Target Balances immediately following the conversion.

5.3 **Treatment of Certain Distributions**. (A) In the event that (i) the Joint Venture Company makes a distribution that would (but for this Subsection (A)) be treated as a Nonrecourse Distribution; and (ii) such distribution does not cause or increase a deficit balance in the Capital Account of the Member receiving such distribution as of the end of the Joint Venture Company's taxable year in which such distribution occurs; then the Board of Managers may treat such distribution as not constituting a Nonrecourse Distribution to the extent permitted by Treas. Reg. § 1.704-2(h)(3).

(B) In the event that (i) the Joint Venture Company makes a distribution that would (but for this Subsection (B)) be treated as a Member Nonrecourse Distribution; and (ii) such distribution does not cause or increase a deficit balance in the Capital Account of the Member receiving such distribution as of the end of the Joint Venture Company's taxable year in which such distribution occurs; then the Board of Managers may treat such distribution as not constituting a Member Nonrecourse Distribution to the extent permitted by Treas. Reg. § 1.704-2(i)(6).

5.4 **Reduction of Basis**. In the event that a Member's interest in the Joint Venture Company may be treated in whole or in part as depreciable property for purposes of reducing such Member's basis in such interest pursuant to section 1017(b)(3)(C) of the Code, the Board of Managers may, upon the request of such Member, make a corresponding reduction in the basis of its depreciable property with respect to such Member. Such request shall be submitted to the Joint Venture Company in writing, and shall include such information as may be reasonably required in order to effect such reduction in basis. The costs of the Joint Venture Company in making and implementing any such adjustments shall be borne by the Member making such request.

5.5 **Entity Classification**. Neither the Joint Venture Company nor any Member shall file or cause to be filed any election, the effect of which would be to cause the Joint Venture Company to be classified as other than a partnership for federal income tax purposes, without the prior written consent of all Members.

5.6 **Unified Audit Election**. The Joint Venture Company will elect, pursuant to section 6231(a)(1)(B)(ii) of the Code, to be subject to the unified audit rules of sections 6221-6234 of the Code, and all Members agree to sign such election.

5.7 **Application of Section 707(b) of the Code**. For purposes of determining the Members' respective interests in capital or profits of the Joint Venture Company under Section 707(b) of the Code, the Members agree that, unless otherwise agreed in writing, such interests shall be computed as of each date of determination as follows: (a) the Joint Venture Company shall be deemed to have a hypothetical taxable year that began with the beginning of its actual taxable year including such date of determination and ended as of such date of determination, with a closing of the Joint Venture Company's books as of such date (provided that deductions such as depreciation, amortization and the like that are computed on an annual basis shall be prorated on a daily basis so as to take into account only the portion attributable to the period up to that date), (b) the interests in profits of each Member as of such date shall equal the percentage of Book income or loss (excluding amounts, if any, required to be disregarded for purposes of applying Section 707(b) of the Code) that would have been allocated to each Member for such hypothetical taxable year, and (c) the capital interests of the Members as of such date shall equal the percentage of the total Capital Accounts of each Member as of such date, after adjustment to reflect the items described in Section 2.1(B), (C) and (D) of this Appendix B treated as occurring during such hypothetical taxable year.

5.8 **Section 754 Election**. The Joint Venture Company shall make or seek the revocation of, as applicable, an election under Section 754 of the Code with respect to the Joint Venture Company upon request of any Member whose Percentage Interest as of the end of any taxable year of the Joint Venture Company exceeds its Percentage Interest as of the Effective Date.

5.9 **Imputed Income**. If a Member is deemed for applicable income tax purposes to have received income from the Joint Venture Company as a result of one or more transactions that were not treated by the Joint Venture Company as giving rise to income to such Member, the Joint Venture Company shall make such adjustments to its allocations as are necessary so that, as closely as possible, such Member is placed in the same tax position as if such income was not deemed to have been recognized, provided that such adjustments shall not result in consequences to the other Member that are significantly more adverse to such other Member than if the position originally taken by the Joint Venture Company were upheld.

5.10 [Reserved].

5.11 **Tax Accounting Methods**. To the extent permitted by applicable law, the Joint Venture Company shall implement such tax elections that to the greatest extent possible result in the Joint Venture Company's cost of goods sold for purposes of determining the Joint Venture Company's Book income or loss equaling the sum of (a) "Cost" as such term is defined in the Supply Agreements, plus (b) any additional amounts included in the "amount realized" by the Joint Venture Company upon the sale of products to Intel and Micron, respectively.

5.12 **No Indemnity for Tax Consequences**. Neither of the Members nor the Joint Venture Company shall be responsible for the income tax consequences to the other Members resulting from this Appendix or the Agreement; *provided*, however, that the Members shall reasonably cooperate as requested in order to effectuate the intent of this Appendix, although such cooperation shall not require either Member to incur significant additional costs that are not reimbursed by the requesting Member.

5.13 [Reserved].

5.14 **Conflicts with Agreement**. In the event of any conflict between the terms of this Appendix B and any provision of the Agreement, the terms of this Appendix B shall govern.

APPENDIX C

IM FLASH SINGAPORE, LLP

INITIAL MANAGERS

The initial Managers appointed by Intel Singapore will be:

1. Dave Baglee
2. Brian L. Harrison
3. Clemente J. Russo
4. Holly L. Barrett

The initial Managers appointed by Micron Singapore will be:

1. W.G. Stover, Jr.
2. Rod Morgan
3. Jen Kwong Hwa
4. Scott DeBoer

APPENDIX D

IM FLASH SINGAPORE, LLP

INITIAL CAPITAL CONTRIBUTIONS

Intel Initial Capital Contribution

Intel Initial Contributed Assets:

Cash (delivered [***])	$[***]

Micron Initial Capital Contribution

Micron Initial Contributed Assets:

Cash (delivered [***])	$[***]

APPENDIX E

Intentionally Omitted.

EXHIBIT A

FORM OF

MANDATORY NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE LIMITED LIABILITY PARTNERSHIP AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH SINGAPORE, LLP

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]

Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, **IM FLASH SINGAPORE, LLP**, a limited liability partnership organized under the laws of Singapore (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____]) and to pay interest on the outstanding principal of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.1 of the Limited Liability Partnership Agreement dated February 27, 2007, of the Joint Venture Company (the "**Partnership Agreement**") and is issued under and subject to the terms, provisions and conditions of the Partnership Agreement. Reference is hereby made to the Partnership Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined

shall have the meanings set forth in the Partnership Agreement. This Note may be one of a series of Notes issued pursuant to Section 3.1 of the Partnership Agreement. This Note is [a Mandatory Shortfall Note] [a Mandatory Equalization Note].

1. TERM.

(a) Subject to paragraph (b) below, from and after the date that is [***] after the date of this Note (the "**Maturity Date**"), the Funding Member shall elect to either:

(i) convert this Note in accordance with Section 4 below; or

(ii) permit this Note to remain outstanding (in which case this Note shall become a Continuing Mandatory Note) with the Maturity Date being the Liquidation Date (the Maturity Date as so extended, the "**Extended Maturity Date**").

In the event that the Funding Member fails to make an election under clause (i) or clause (ii) above, the Funding Member shall be deemed to have elected to permit this Note to remain outstanding in accordance with clause (ii) above, and this Note and the related Mandatory [Equalization][Shortfall] Note, shall automatically become a Continuing Mandatory Note.

(b) Subject to Section 4 below, upon the date of the first distribution under Section 13.13(C) of the Partnership Agreement, the Outstanding Balance, plus all accrued and unpaid interest thereon, shall become due.

2. INTEREST. [***Mandatory Equalization Note***: [***]]

[***Mandatory Shortfall Note:*** As provided in the Partnership Agreement, interest on the unpaid principal balance of this Note (such unpaid principal balance at any given time is referred to as the "**Outstanding Balance**") will accrue as follows:

(a) For the [***] after the issue date of this Note, interest will accrue at the [***] (as reported in the [***]), as in effect on the issue date of this Note and adjusted every [***], plus [***] ([***]) basis points, per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

(b) For the period starting on the day after the [***] anniversary of the issue date of this Note through the Maturity Date, interest will accrue at the [***] (as reported in the [***]), as in effect on the [***] anniversary of the issue date of this Note and adjusted every [***], per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

(c) [***] will accrue on the Outstanding Balance from the Maturity Date until this Note is converted or redeemed in full.]

All payments received shall be applied first against costs of collection and enforcement (if any), then against accrued and unpaid interest, and then against principal.

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Partnership Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, from the Maturity Date through the Extended Maturity Date, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance plus all accrued and unpaid interest thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) If the Outstanding Balance plus all accrued and unpaid interest thereon shall become due as set forth in Section 1(b) above, (i) the Funding Member may elect to make a Conversion in full, but not in part, of the Outstanding Balance plus all accrued and unpaid interest thereon or (ii) if the Funding Member does not so elect, a Conversion of the Outstanding Balance plus all accrued and unpaid interest thereon (in full, but not in part) may be effected in accordance with Section 13.13(B) of the Partnership Agreement.

(c) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of or interest on this Note as and when required by the Partnership Agreement or the terms hereof, unless the Funding Member makes an election under Section 1(a) hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to the Act; (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the Outstanding Balance, in which case the Outstanding Balance plus all accrued and unpaid interest thereon shall be due and payable immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Partnership Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to “sections” and “appendices” will mean “sections” and “appendices” to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Site Manager of the Joint Venture Company at the Joint Venture Company’s principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other

remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Partnership Agreement and this Note, the provisions of the Partnership Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH SINGAPORE, LLP

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY **IM FLASH SINGAPORE, LLP**
TO [_____]

EXHIBIT B

FORM OF

OPTIONAL [***] NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE LIMITED LIABILITY PARTNERSHIP AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH SINGAPORE, LLP

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]

Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, **IM FLASH SINGAPORE, LLP**, a limited liability partnership organized under the laws of Singapore (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____]) and to pay interest on the outstanding principal of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.2 of the Limited Liability Partnership Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Partnership Agreement**") and is issued under and subject to the terms, provisions and conditions of the Partnership Agreement. Reference is hereby made to the Partnership Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Partnership Agreement. This Note may be one of a

series of Notes issued pursuant to Section 3.2 of the Partnership Agreement. This Note is [an Optional [***] Shortfall Note] [an Optional [***] Equalization Note].

1. TERM. (a) This note will mature on the [***].

(b) Subject to Section 4 below, upon the date of the first distribution under Section 13.13(C) of the Partnership Agreement, the Outstanding Balance, plus all accrued and unpaid interest thereon, shall become due.

2. INTEREST. [***Optional [***] Equalization Note:*** [***]]

[***Optional [***] Shortfall Note:*** As provided in the Partnership Agreement, interest on the unpaid principal balance of this Note (such unpaid principal balance at any given time is referred to as the "**Outstanding Balance**") will accrue at the [***] (as reported in the [***]), as in effect on the issue date of this Note and adjusted every [***], per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

All payments received shall be applied first against costs of collection and enforcement (if any), then against accrued and unpaid interest, and then against principal.

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Partnership Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance plus all accrued and unpaid interest thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) If the Outstanding Balance plus all accrued and unpaid interest thereon shall become due as set forth in Section 1(b) above, (i) the Funding Member may elect to make a Conversion in full, but not in part, of the Outstanding Balance plus all accrued and unpaid interest thereon or (ii) if the Funding Member does not so elect, a Conversion of the Outstanding Balance plus all accrued and unpaid interest thereon (in full, but not in part) may be effected in accordance with Section 13.13(B) of the Partnership Agreement.

(c) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of or interest on this Note as and when required by the Partnership Agreement or the terms hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to the Act; (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the Outstanding Balance, in which case the Outstanding Balance plus all accrued and unpaid interest thereon shall be due and payable immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Partnership Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to "sections" and "appendices" will mean "sections" and "appendices" to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Site Manager of the Joint Venture Company at the Joint Venture Company's principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred

upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Partnership Agreement and this Note, the provisions of the Partnership Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH SINGAPORE, LLP

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY **IM FLASH SINGAPORE, LLP**
TO [_____]

EXHIBIT C

FORM OF
OPTIONAL OTHER NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE LIMITED LIABILITY PARTNERSHIP AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH SINGAPORE, LLP

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]
Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, **IM FLASH SINGAPORE, LLP**, a limited liability partnership organized under the laws of Singapore (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____])of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.3 of the Limited Liability Partnership Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Partnership Agreement**") and is issued under and subject to the terms, provisions and conditions of the Partnership Agreement. Reference is hereby made to the Partnership Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Partnership Agreement. This Note may be one of a

series of Notes issued pursuant to Section 3.3 of the Partnership Agreement. This Note is an Optional Other Shortfall Note.

1. TERM. This Note will mature on the [***].

2. INTEREST. [***]

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Partnership Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of on this Note as and when required by the Partnership Agreement or the terms hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to the Act; (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the Outstanding Balance, in which case the Outstanding Balance shall be due and payable

immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Partnership Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to “sections” and “appendices” will mean “sections” and “appendices” to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Site Manager of the Joint Venture Company at the Joint Venture Company’s principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Partnership Agreement and this Note, the provisions of the Partnership Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH SINGAPORE, LLP

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY **IM FLASH SINGAPORE, LLP**
TO [_____]

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

SUPPLY AGREEMENT

This SUPPLY AGREEMENT (the "**Agreement**"), is made and entered into as of this 27th day of February, 2007 (the "**Effective Date**"), by and between Micron Semiconductor Asia Pte. Ltd., a Singapore private limited company ("**Micron Singapore**"), and IM Flash Singapore, LLP, a Singapore limited liability partnership (the "**Joint Venture Company**").

RECITALS

A. The Joint Venture Company is engaged in the manufacturing, assembly and testing of NAND Flash Memory Products (as defined hereinafter) for Micron Singapore.

B. Micron Singapore and the Joint Venture Company (each, a "**Party**" and collectively, the "**Parties**") desire the Joint Venture Company to supply Products, including Secondary Silicon, for Micron Singapore in accordance with Micron Singapore's Sharing Interest upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT

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

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETIVE MATTERS

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

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each of the Schedules will apply only to the corresponding Section or subsection of this Agreement, (3) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with Modified GAAP, (4)

words in the singular include the plural and visa versa, (5) the term "**including**" means "including without limitation," and (6) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual Section or portion hereof. All references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days and all references to "**quarter(ly)**," "**month(ly)**" or "**year(ly)**" will mean Fiscal Quarter, Fiscal Month or Fiscal Year, respectively.

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

ARTICLE 2
OBLIGATIONS OF THE JOINT VENTURE COMPANY; PROCESSES AND CONTROLS

2.1 General Obligations. The Joint Venture Company will (1) supply Product to Micron Singapore in accordance with the purchasing process set forth in Article 4 hereof; (2) develop its Facilities and operations to meet Capacity according to the Initial Business Plan, as may be amended thereafter, and the Operating Plan and the obligations set forth herein, including Sections 2.2, 2.5 and 2.9; (3) supply Products which meet the Specification(s), Price, Yield, Cycle-Time, and Quality and Reliability as agreed by the Parties; and (4) operate its Facilities so that Product output from any one Facility matches the other Facilities in form, fit and function, in accordance with Section 2.14.

2.2 Products to Supply. The Joint Venture Company will manufacture, assemble and test Products for Micron Singapore in accordance with the Operating Plan and applicable Specifications, developed in response to Micron Singapore's Demand Forecast provided to the Joint Venture Company in accordance with Article 3 below.

2.3 Process and Design Information. Micron Singapore agrees to provide to the Joint Venture Company: (i) such process technology or information as is required to be disclosed under the Joint Development Program Agreement and the Technology License Agreement; and (ii) design information reasonably required to manufacture NAND Flash Memory Wafers.

2.4 Control; Processes. The Joint Venture Company and Micron Singapore will review the Joint Venture Company's control and process mechanisms, including but not limited to such mechanisms that are utilized to ensure that all parameters of the Specification, including the Performance Criteria, are met or exceeded in the Joint Venture Company's manufacture of Products by either the Joint Venture Company or its approved subcontractor for Micron Singapore. The Parties agree to work together in good faith to define mutually agreeable control and process mechanisms including the following: [***].

2.5 Equipment, Systems, Materials. Except as provided in other Joint Venture Documents, the Joint Venture Company shall be responsible for procuring all manufacturing

equipment, tools, automated material handling systems therein and materials, including Prime Wafers, which are reasonably required for the Joint Venture Company to achieve the Operating Plan. The Joint Venture Company shall endeavor to manage the entire supply chain, including equipment, materials, systems, maintenance and subcontractors and vendors, to create efficiency and maximize the Performance Criteria.

2.6 Production Masks. Unless otherwise agreed with Micron Singapore, the Joint Venture Company or its subcontractors will be responsible to obtain, maintain, repair and replace masks used in the production of Products. Such masks will only be used in the production of Products for Micron Singapore. Production masks will be repaired and replaced solely at mask operations which have been approved by Micron Singapore, and which approval shall not be unreasonably withheld. The Joint Venture Company or its subcontractors will retain possession, but not ownership of any underlying copyrights, maskworks or other intellectual property, of any physical production masks which the Joint Venture Company has made under this Section 2.6.

2.7 Designation of WIP. At Micron Singapore's option, the Joint Venture Company will ensure that WIP at Facilities or its subcontractor's facilities is designated for Micron Singapore from Wafer Start. If Micron Singapore does not elect to have WIP so designated, the Joint Venture Company will designate the WIP for Micron Singapore after Probe Testing. Custom Product of Micron Singapore, if any, must be designated as for Micron Singapore from Wafer Start at all the Facilities or its subcontractor's facilities.

2.8 Subcontractors. The Joint Venture Company may utilize subcontractors to perform any portion of the manufacture, assembly and test process in making Products for Micron Singapore, subject to all subcontractors being approved by the Members, and which approval shall not be unreasonably withheld. The Joint Venture Company will ensure that all contracts with subcontractors will provide the Joint Venture Company with the same level of access and controls as set forth in the Agreement, including Sections 2.4, 2.9, 2.10, 2.11 and 2.12 and Article 5.

2.9 Staffing. The Joint Venture Company shall adequately staff its Facilities, and ensure that its subcontractors adequately staff their facilities, to sustain and manage production of Product for Micron Singapore, including the obligations set forth in Section 2.1 and meeting scheduled commitments, including the Operating Plan and the Performance Criteria.

2.10 Business Continuity Plan. The Joint Venture Company will develop a process (the "**Business Continuity Plan**") to recover the production process in the event of a natural disaster or any other event that disrupts the production process or the ability of the Joint Venture Company to meet its delivery commitments to Micron Singapore or satisfy customer orders. If requested by Micron Singapore, the Joint Venture Company will review its Business Continuity Plan with Micron Singapore and make changes as agreed with Micron Singapore, subject to any confidentiality requirements.

2.11 [***]. In addition to the quarterly review and monthly report requirements set forth in Sections 3.2 and 3.3, the Joint Venture Company will promptly notify Micron Singapore of [***].

2.12 Traceability and Data Retention. Micron Singapore and the Joint Venture Company shall review the Joint Venture Company's process traceability system [***]. The Joint Venture Company agrees to maintain such data for a minimum of [***]. The Joint Venture Company will endeavor to provide Micron Singapore [***].

2.13 Additional Customer Requirements. Micron Singapore will inform the Joint Venture Company in writing of any auditable supplier requirements of any Micron Singapore customer relating to any Facility at which Product is manufactured, assembled or tested. The Parties will work together in good faith to resolve such requests

2.14 Transfer; Equivalency of Operations. Micron Singapore will cooperate in good faith with the Joint Venture Company to transfer Micron Singapore's technology to the Joint Venture Company, if such technology transfer is required under the Joint Venture Documents. The Joint Venture Company will establish similar baseline Product performance standards, including form, fit and function, at Facilities and subcontracted facilities. Such efforts will include the provision of up to date equivalent materials (including correlation wafers), data and information.

ARTICLE 3
PLANNING MEETINGS AND FORECASTS; PERFORMANCE REVIEWS AND REPORTS

3.1 Planning and Forecasting.

(a) Micron Singapore will quarterly provide the Joint Venture Company, in a timeframe to be mutually agreed by the Parties to meet customer expectations, with a written demand forecast for [***] ([***]) quarters corresponding to the Joint Venture Company's Fiscal Quarters or as may be otherwise agreed between the Parties. This demand will include desired finished product breakout by design id, technology node, wafer as finished goods or package type ("**Demand Forecast**").

(b) The Joint Venture Company shall furnish Micron Singapore with a written response within [***] ([***]) Business Days indicating a response regarding capacity and what portion of the demand that the Joint Venture Company can commit to meet. This written response (the "**Planning Forecast**") will include:

[***]

(c) Based on the Planning Forecast, the Joint Venture Company shall develop a [***] ([***]) Fiscal Quarter proposed Product loading plan for such period (**"Proposed Loading Plan"**). The Joint Venture Company shall provide Micron Singapore with the Proposed Loading Plan at least [***] ([***]) Business Days prior to its review by the Manufacturing Committee.

(d) The Joint Venture Company will submit the Proposed Loading Plan, Planning Forecast and other requested information to the Manufacturing Committee for

endorsement. Once endorsed by the Manufacturing Committee, the Proposed Loading Plan shall become part of the Operating Plan.

3.2 Performance Reviews and Reports. The Joint Venture Company shall meet with Micron Singapore each quarter to discuss the Performance Criteria and the most recent monthly report. The monthly report will be distributed to Micron Singapore monthly, on a date to be agreed by the Parties, and will include the following information:

(a) Describes [***];

(b) Describes [***];

(c) Describes [***].

(d) Identifies [***].

3.3 Monthly Review. In addition, the Parties shall hold a monthly meeting, on a date to be agreed by the Parties, with the primary purpose of [***].

ARTICLE 4
PURCHASE AND SALE OF PRODUCTS

4.1 Product Quantity. Micron Singapore shall purchase from the Joint Venture Company a percentage, equal to Micron Singapore's Sharing Interest (as the same may change from time to time), of all of the Joint Venture Company's output of Products that meet the Specifications. The Joint Venture Company shall produce all Products in accordance with the Operating Plan developed in response to Micron Singapore's Demand Forecast under Article 3 above. If Micron Singapore fails to purchase its full Sharing Interest of the Joint Venture Company's output, produced in accordance with the Operating Plan ("**Under-loading**"), then the increased Prices associated with such Under-loading shall be isolated and charged solely to Micron Singapore, which Micron Singapore shall remain solely responsible for paying. Notwithstanding the foregoing, Micron Singapore may elect, but is not obligated, to purchase Product in excess of its Sharing Interest only by mutual agreement of the other Member.

4.2 Secondary Silicon. Any Secondary Silicon produced by the Joint Venture Company or its subcontractors will be provided [***] by the Joint Venture Company to the Members in a percentage equal to Micron Singapore's Sharing Interest (as the same may change from time to time). ALL SECONDARY SILICON PROVIDED HEREUNDER IS PROVIDED ON AN "AS IS," "WHERE IS" WITH ALL FAULTS AND DEFECTS BASIS WITHOUT WARRANTY OF ANY KIND.

4.3 Placement of Purchase Orders. Prior to the commencement of every Fiscal Quarter or another time period agreed by the Parties in conjunction with the planning cycle specified in Article 3, the Joint Venture Company shall place a non-cancelable blanket purchase order in writing (via e-mail or facsimile transmission) for the quantity of Product to be supplied by the Joint Venture Company in the following Fiscal Quarter as indicated in the Operating Plan (each such order, a "**Purchase Order**"). Micron Singapore may issue change orders to such Purchase Orders

to reflect changes in the Operating Plan, provided that such changes can be reasonably accommodated by the Joint Venture Company without disrupting ongoing manufacturing operations. Micron Singapore may also elect to place out-of-cycle purchase order of Product, including expedited Probed Wafers, to the Joint Venture Company on an as-needed basis. The terms and conditions of this Agreement supersede the terms and conditions contained in either Party's sales or purchase documentation provided in connection herewith unless expressly agreed otherwise in a writing signed by each Party.

4.4 Shortfall. The Joint Venture Company shall immediately notify Micron Singapore in writing of any inability to meet a Purchase Order commitment to Micron Singapore.

4.5 Acceptance of Purchase Order. Each Purchase Order that corresponds to the Operating Plan in the manner contemplated by Section 4.3 and is otherwise free of errors shall be deemed accepted by the Joint Venture Company upon receipt and shall be binding on the Parties to the extent not inconsistent with the Operating Plan.

4.6 Content of Purchase Orders. Each Purchase Order shall specify the following items:

(a) Purchase Order number;

(b) Description and part number of each Product;

(c) Forecasted quantity of each different Product and the Sharing Interest portion thereof for the calendar month;

(d) Forecasted unit Price and total forecasted Price for each different Product, and total forecasted Price for all Products ordered;

(e) Level of Probe Testing;

(f) Marking specification and packaging requirements;

(g) Requested delivery date;

(h) Place of delivery; and

(i) Other terms (if any).

4.7 Taxes.

(a) General. All sales, use and other transfer taxes imposed directly on or solely as a result of the supplying of Products and the payments therefore provided herein shall be stated separately on the Joint Venture Company's invoice, collected from Micron Singapore and shall be remitted by the Joint Venture Company to the appropriate tax authority (**"Recoverable Taxes"**), unless Micron Singapore provides valid proof of tax exemption prior to the effective date of the transfer of the Products or otherwise as permitted by law prior to the time the Joint Venture

Company is required to pay such taxes to the appropriate tax authority. When property is delivered and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of taxes by Micron Singapore is required by law, the Joint Venture Company shall have sole responsibility for payment of said taxes to the appropriate tax authorities. In the event such taxes are Recoverable Taxes and the Joint Venture Company does not collect tax from Micron Singapore or pay such taxes to the appropriate governmental entity on a timely basis, and is subsequently audited by any tax authority, liability of Micron Singapore will be limited to the tax assessment for such Recoverable Taxes with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Notwithstanding anything herein to the contrary, taxes other than Recoverable Taxes shall not be reimbursed by Micron Singapore, and each Party is responsible for its own respective income taxes (including franchise and other taxes based on net income or a variation thereof), taxes based upon gross revenues or receipts, and taxes with respect to general overhead, including but not limited to business and occupation taxes, and such taxes shall not be Recoverable Taxes.

(b) Withholding Taxes. In the event that Micron Singapore is prohibited by law from making payments to the Joint Venture Company unless Micron Singapore deducts or withholds taxes therefrom and remits such taxes to the local taxing jurisdiction, then Micron Singapore shall duly withhold and remit such taxes and shall pay to the Joint Venture Company the remaining net amount after the taxes have been withheld. Such taxes shall not be Recoverable Taxes and Micron Singapore shall not reimburse the Joint Venture Company for the amount of such taxes withheld.

4.8 Invoicing; Payment. The Joint Venture Company shall invoice Micron Singapore on a monthly basis for the Price of the Products provided and all overhead, interest, general and administrative and other costs, including all start-up costs for Facilities which shall be split between the Members based on Sharing Interest. All amounts owed under this Agreement are stated, calculated and shall be paid in United States Dollars. Except as otherwise specified in this Agreement, Micron Singapore shall pay the Joint Venture Company for the amounts due, owing, and duly invoiced under this Agreement within [***] ([***]) days following delivery of an invoice therefor to such place as the Joint Venture Company may reasonably direct therein.

4.9 Payment to Subcontractors. The Joint Venture Company shall be responsible for and shall hold Micron Singapore harmless for any and all payments to its vendors or subcontractors utilized in the performance of this Agreement.

4.10 Delivery, Title and Risk of Loss. The Joint Venture Company, in order to ensure timely and complete shipment of Products to Micron Singapore, shall arrange for and pay for all shipping charges, insurance, taxes, customs charges and any fees and duties in connection with such shipment. The Joint Venture Company shall hold title to and risk of loss of Products under this Agreement, including WIP held by subcontractors, until tender to the carrier, at which time title and risk of loss and damage to Products shall transfer to Micron Singapore.

4.11 Packaging. All shipment packaging of the Products shall be in conformance with the Specifications, the Micron Singapore's reasonable instructions, and general industry standards, and shall be resistant to damage that may occur during transportation. Marking on the packages

shall be made by the Joint Venture Company in accordance with Micron Singapore's reasonable instructions.

4.12 Shipment. All Products shall be prepared for shipment in a manner that: (i) follows good commercial practice; (ii) is acceptable to common carriers for shipment at the lowest rate; and (iii) is adequate to ensure safe arrival. The Joint Venture Company shall mark all containers with necessary lifting, handling, and shipping information, Purchase Order number, date of shipment, and the names of Micron Singapore and the applicable customer. If no instructions are given, the Joint Venture Company shall select the most price effective carrier, given the time constraints known to the Joint Venture Company. At Micron Singapore's request, the Joint Venture will provide drop-shipment of Products to Micron Singapore's customers. Such shipment service may be provided by a subcontractor to the Joint Venture Company provided that title remains with the Joint Venture Company and then passes to Micron Singapore upon tender to the carrier.

4.13 Customs Clearance. Upon Micron Singapore's request, the Joint Venture Company will promptly provide Micron Singapore with a statement of origin for all Products and with applicable customs documentation for Products wholly or partially manufactured outside of the country of import.

ARTICLE 5
VISITATIONS, AUDITS

5.1 Visits. The Joint Venture Company will support Micron Singapore's reasonable requests for visits to Facilities and meetings for the purpose of reviewing performance of production of Products including requests for further information and assistance in troubleshooting performance issues. Such requests shall be reasonably granted by the Joint Venture Company so long as such visits and meetings do not unduly interfere with the Joint Venture Company's operations and business affairs.

5.2 Audit. Micron Singapore representatives and key customer representatives, upon Micron Singapore's request, shall be allowed to visit the Joint Venture Company's Facilities during normal working hours upon reasonable advanced written notice to the Joint Venture Company for the purposes of monitoring production processes and compliance with any requirements set forth in this Agreement and the Specifications. Upon completion of the audit, the Joint Venture Company and Micron Singapore will agree to an audit closure plan, to be documented in the audit report issued by Micron Singapore.

5.3 Financial Audit. Micron Singapore reserves the right to have the Joint Venture Company's books and records related to the Pricing hereunder inspected and audited not more than [***] during any Fiscal Year to ensure compliance with Schedule 4.8 of this Agreement in regards to Pricing. Such audit will be performed by an independent third party auditor acceptable to both Parties at Micron Singapore's expense. Micron Singapore shall provide [***] ([***]) days advance written notice to the Joint Venture Company of its desire to initiate an audit and the audit shall be scheduled so that it does not adversely impact or interrupt the Joint Venture Company's business operations. If the audit reveals any material discrepancies, the Joint Venture Company or Micron Singapore shall reimburse the other, as applicable, for any material discrepancies within

[***] ([***]) days after completion of the audit. The results of such audit shall be kept confidential by the auditor and only the discrepancies shall be reported to the Parties, and be limited to discrepancies identified by the audit. Notwithstanding the foregoing, any auditor reports shall not disclose any Joint Venture Company pricing or terms of purchase for any purchases of materials or equipment hereunder to Micron Singapore, absent written agreement from the Members' respective legal counsel. If any audit reveals a material discrepancy, Micron Singapore may increase the frequency of such audits to [***] for the subsequent [***] ([***]) month period.

5.4 Subcontractor; Vendor Visits. The Joint Venture Company will use commercially reasonable efforts to ensure that all contracts with vendors and subcontractors will provide the Joint Venture Company and Micron Singapore with the right to visit and audit rights similar to those set forth in this Article 5.

ARTICLE 6
WARRANTY; HAZARDOUS MATERIALS; DISCLAIMER

6.1 Product Warranty. The Joint Venture Company makes the following warranties regarding Products furnished hereunder, which warranties shall survive any delivery, inspection, acceptance, payment or resale of the Products:

(a) Products conform to all agreed Specifications;

(b) Products are free from defects in materials or workmanship; and

(c) The Joint Venture Company has the necessary right, title, and interest to provide Products to the Joint Venture Company and the Products will be free of liens and encumbrances, not including any implied warranty of non-infringement.

6.2 Warranty Claims. Within a period of time, not to exceed the lesser of the actual warranty period applicable to the end customer for the NAND Flash Memory Product at issue or eighteen (18) months from the date of the delivery of the Products at issue to the Micron Singapore ("**Warranty Claim Period**"), Micron Singapore shall notify the Joint Venture Company if it believes that any Product does not meet the Product warranty set forth in Section 6.1. Micron Singapore shall return such Products to the Joint Venture Company as directed by the Joint Venture Company. If a Product is determined not to be in compliance with such warranty, then Micron Singapore shall be entitled to return such Product and cause the Joint Venture Company to replace at the Joint Venture Company's expense or, at Micron Singapore's option, receive a credit or refund of any monies paid to the Joint Venture Company in respect of such Product, save that such credit or refund shall in no event exceed on a per-unit basis the final price paid for the Product under this Agreement. The basis for such refund or credit shall be the Price on a per-unit basis in the month in which the returned Product was invoiced to the Micron Singapore. THE FOREGOING REMEDY IS MICRON SINGAPORE'S SOLE AND EXCLUSIVE REMEDY FOR THE JOINT VENTURE COMPANY'S FAILURE TO MEET ANY WARRANTY OF SECTION 6.1.

6.3 Inspections. Members may, upon reasonable advance written notice, request samples of Products (including WIP) during production for purposes of determining compliance

with the requirements and Specification(s) hereunder, provided that the provision of such samples shall not materially impact the Joint Venture Company's performance to the Operating Plan or its ability to meet delivery requirements under any accepted Purchase Order. Any samples provided hereunder shall be: (i) limited in quantity to the amount reasonably necessary for the purposes hereunder; (ii) included in the pricing; and (iii) included in any performance requirements, if any. The Joint Venture Company shall provide reasonable assistance for the safety and convenience of Micron Singapore in obtaining the samples in such manner as shall not unreasonably hinder or delay the Joint Venture Company's performance.

6.4 Hazardous Materials.

(a) If Products provided hereunder include Hazardous Materials as determined in accordance with Applicable Law, the Joint Venture Company represents and warrants that the Joint Venture Company and the Joint Venture Company's employees, agents, and subcontractors actually working with such materials in providing the Products hereunder to Micron Singapore shall be trained in accordance with Applicable Law regarding the nature of and hazards associated with the handling, transportation, and use of such Hazardous Materials, as applicable to the Joint Venture Company.

(b) To the extent required by Applicable Law, the Joint Venture Company shall provide Micron Singapore with Material Safety Data Sheets (MSDS) either prior to or accompanying any delivery of Products to Micron Singapore.

6.5 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE 6, THE JOINT VENTURE COMPANY HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE, WITH RESPECT TO THE PRODUCTS PROVIDED UNDER THIS AGREEMENT. THE WARRANTIES WILL NOT APPLY TO: (i) ANY WARRANTY CLAIM OR ISSUE, OR DEFECT TO THE EXTENT CAUSED BY TECHNICAL MATERIALS PROVIDED OR SPECIFIED BY, THROUGH OR ON BEHALF OF THE MEMBERS OR COMMITTEES OF MEMBERS, INCLUDING BUT NOT LIMITED TO PRODUCT DESIGNS, TECHNOLOGY AND TEST PROGRAMS; OR (ii) THE WARRANTIES WILL NOT APPLY TO ANY OF THE PRODUCTS THAT HAVE BEEN REPAIRED OR ALTERED, EXCEPT AS AUTHORIZED BY THE JOINT VENTURE COMPANY, OR WHICH ARE SUBJECTED TO MISUSE, NEGLIGENCE, ACCIDENT OR ABUSE.

ARTICLE 7
CONFIDENTIALITY; OWNERSHIP

7.1 Protection and Use of Confidential Information. All information provided, disclosed or obtained in the performance of any of the Parties' activities under this Agreement shall be subject to all applicable provisions of the Confidentiality Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "**Confidential Information**" under the Confidentiality Agreement for which each Party is considered a "**Receiving Party**" under such

agreement. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

7.2 Masks. Any masks produced pursuant to this Agreement will be based on Product designs owned by Intel and shall be treated as Confidential Information of Intel.

7.3 Intellectual Property Ownership. Ownership of any intellectual property developed by the Joint Venture Company will be governed by the Omnibus IP Agreement.

ARTICLE 8
INDEMNIFICATION

8.1 Mutual General Indemnity. Subject to Article 9, each Party ("**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party ("**Indemnified Party**") from and against any and all Indemnified Losses based on or attributable to any Third Party Claim or threatened Third Party Claim arising under this Agreement and as a result of the Indemnifying Party's negligence, gross negligence or willful misconduct of the Indemnifying Party or any of its respective officers, directors, employees, agents or subcontractors. Notwithstanding the foregoing, this Section 8.1 shall not apply to any claims or losses based on or attributable to intellectual property infringement.

8.2 Indemnification Procedures.

(a) Promptly after the receipt by any Indemnified Party of a notice of any Third Party Claim that an Indemnified Party seeks to be indemnified under this Agreement, such Indemnified Party shall give written notice of such Third Party Claim to the Indemnifying Party, stating in reasonable detail the nature and basis of each allegation made in the Third Party Claim and the amount of potential Indemnified Losses with respect to each allegation, to the extent known, along with copies of the relevant documents received by the Indemnified Party evidencing the Third Party Claim and the basis for indemnification sought. Failure of the Indemnified Party to give such notice shall not relieve the Indemnifying Party from liability on account of this indemnification, except if and only to the extent that the Indemnifying Party is actually prejudiced by such failure or delay. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim. The Indemnifying Party shall have the right to assume the defense of the Indemnified Party with respect to such Third Party Claim upon written notice to the Indemnified Party delivered within thirty (30) days after receipt of the particular notice from the Indemnified Party. So long as the Indemnifying Party has assumed the defense of the Third Party Claim in accordance herewith and notified the Indemnified Party in writing thereof, (i) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, it being understood that the Indemnifying Party shall pay all reasonable costs and expenses of counsel for the Indemnified Party after such time as the Indemnified Party has notified the Indemnifying Party of such Third Party Claim and prior to such time as the Indemnifying Party has notified the Indemnified Party that it has assumed the defense of such Third Party Claim, (ii) the Indemnified Party shall not file any papers or, other than in connection with a settlement of the Third Party Claim, consent to the entry of any judgment without the prior written consent of the

Indemnifying Party (not to be unreasonably withheld, conditioned or delayed) and (iii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim (other than a judgment or settlement that is solely for money damages and is accompanied by a release of all indemnifiable claims against the Indemnified Party) without the prior written consent of the Indemnified Party (not to be unreasonably withheld, conditioned or delayed). Whether or not the Indemnifying Party shall have assumed the defense of the Indemnified Party for a Third Party Claim, such Indemnifying Party shall not be obligated to indemnify and hold harmless the Indemnified Party hereunder for any consent to the entry of judgment or settlement entered into with respect to such Third Party Claim without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Equitable Remedies. In the case of any Third Party Claim where the Indemnifying Party reasonably believes that it would be appropriate to settle such Third Party Claim using equitable remedies (i.e., remedies involving the future activity and conduct of the Joint Venture Company), the Indemnifying Party and the Indemnified Party shall work together in good faith to agree to a settlement; provided, however, that no Party shall be under any obligation to agree to any such settlement.

(c) Treatment of Indemnification Payments; Insurance Recoveries. Any indemnity payment under this Agreement shall be decreased by any amounts actually recovered by the Indemnified Party under third party insurance policies with respect to such Indemnified Losses (net of any premiums paid by such Indemnified Party under the relevant insurance policy), each Party agreeing (i) to use all reasonable efforts to recover all available insurance proceeds and (ii) to the extent that any indemnity payment under this Agreement has been paid by the Indemnifying Party to the Indemnified Party prior to the recovery by the Indemnified Party of such insurance proceeds, the amount of such insurance proceeds actually recovered by the Indemnified Party shall be promptly paid to the Indemnifying Party.

(d) Certain Additional Procedures. The Indemnified Party shall cooperate and assist the Indemnifying Party in determining the validity of any Third Party Claim for indemnity by the Indemnified Party and in otherwise resolving such matters. The Indemnified Party shall cooperate in the defense by the Indemnifying Party of each Third Party Claim (and the Indemnified Party and the Indemnifying Party agree with respect to all such Third Party Claims that a common interest privilege agreement exists between them), including: (i) permitting the Indemnifying Party to discuss the Third Party Claim with such officers, employees, consultants and representatives of the Indemnified Party as the Indemnifying Party reasonably requests; (ii) providing to the Indemnifying Party copies of documents and samples of products as the Indemnifying Party reasonably requests in connection with defending such Third Party Claim; (iii) preserving all properties, books, records, papers, documents, plans, drawings, electronic mail and databases of the Joint Venture Company and relating to matters pertinent to the conduct of the Joint Venture Company under the Indemnified Party's custody or control in accordance with such Party's corporate documents retention policies, or longer to the extent reasonably requested by the Indemnifying Party; (iv) notifying the Indemnifying Party promptly of receipt by the Indemnified Party of any subpoena or other third party request for documents or interviews and testimony; (v) providing to the Indemnifying Party copies of any documents produced by the Indemnified Party in response to or compliance with any subpoena or other third party request for documents; and

(vi) except to the extent inconsistent with the Indemnified Party's obligations under applicable law and except to the extent that to do so would subject the Indemnified Party or its employees, agents or representatives to criminal or civil sanctions, unless ordered by a court to do otherwise, not producing documents to a third party until the Indemnifying Party has been provided a reasonable opportunity to review, copy and assert privileges covering such documents.

ARTICLE 9
LIMITATION OF LIABILITY

9.1 Damages Limitation. SUBJECT TO SECTION 9.4, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR OTHER INDIRECT DAMAGES OR ANY PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER SUCH DAMAGES ARE BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER THEORY OF LIABILITY, AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 THE PARTIES AGREE THAT TO THE EXTENT A CLAIM ARISES UNDER THIS AGREEMENT, THE CLAIM SHALL BE BROUGHT UNDER THIS AGREEMENT.

9.3 Damages Cap. SUBJECT TO SECTION 9.4, IF EITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY MATTER ARISING FROM THIS AGREEMENT, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, WARRANTY, EQUITY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM AN ACT OR OMISSION, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY), THE AMOUNT OF DAMAGES RECOVERABLE AGAINST THE LIABLE PARTY WITH RESPECT TO ANY BREACH, PERFORMANCE, NONPERFORMANCE, ACT OR OMISSION HEREUNDER WILL NOT EXCEED THE LESSER OF THE ACTUAL DAMAGES ALLOWED HEREUNDER; OR (i) IN THE CASE OF THE JOINT VENTURE COMPANY BRINGING A CLAIM FOR TEN MILLION DOLLARS ($10,000,000) PER CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE; OR (ii) IN THE CASE OF PARENT BRINGING A CLAIM: (a) NON-CUSTOM PRODUCTS SOLD BY THE JOINT VENTURE COMPANY TO BOTH MEMBERS, TEN MILLION DOLLARS ($10,000,000) PER CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE; OR (b) IN THE CASE OF CUSTOM PRODUCTS, THE AMOUNT OF DAMAGES, IF ANY, ACTUALLY RECOVERED BY THE JOINT VENTURE COMPANY FROM ANY THIRD PARTY RELATING TO THE PARENT'S CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE.

9.4 Exclusions and Mitigation. Section 9.1 and Section 9.3 will not apply to either Party's breach of Article 7. Section 9.3 will not apply to Micron Singapore's failure to meet either an Under-loading charge under Section 4.1 or a payment obligation which is due and payable under this Agreement. Each Party shall have a duty to use commercially reasonable efforts to mitigate damages for which the other Party is responsible.

9.5 Losses. Except as provided under Section 8.1, the Joint Venture Company and Micron Singapore each shall be responsible for Losses to their respective, tangible, personal or real property (whether owned or leased), and each Party agrees to look only to their own insurance arrangements with respect to such damages. The Joint Venture Company and Micron Singapore waive all rights to recover against each other, including each Party's insurers' subrogation rights, if any, for any loss or damage to their respective tangible personal property or real property (whether owned or leased) from any cause covered by insurance maintained by each of them, including their respective deductibles or self-insured retentions. Notwithstanding the foregoing, in the event of a loss hereunder involving a property, transit or crime event or occurrence that: (i) is insured under Micron Singapore's insurance policies; (ii) a single insurance deductible and/or limits applies; and (iii) the loss event or occurrence affects the insured ownership or insured legal interests of both Parties, then the Parties shall share the cost of the deductible and share the limits in proportion to each Party's insured ownership or legal interests in relative proportion to the total insured ownership or legal interests of the Parties.

ARTICLE 10
TERM AND TERMINATION; SUPPLY OBLIGATIONS FOLLOWING TRIGGERING EVENT

10.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until the first to occur of (a) the Liquidation Date or (b) a Minority Closing, unless terminated sooner solely by mutual agreement (such period of time, the "**Term**").

10.2 Termination. This Agreement may not be terminated for any reason, including breach by a Party, before termination pursuant to Section 10.1.

10.3 Masks. On the Liquidation Date, the Joint Venture Company shall immediately transfer possession of production masks possessed by it at each Facility to the Member that then owns that Facility as of the Liquidation Date.

10.4 Survival. Termination of this Agreement shall not affect any of the Parties' respective rights accrued or obligations owed before termination, including any rights or obligations of the Parties in respect of any accepted Purchase Orders existing at the time of termination. In addition, the following shall survive termination of this Agreement for any reason: Sections 2.12, 6.2 and 6.5, and Articles 4, 7, 8, 9, 10 and 11.

10.5 Supply Obligations Following Triggering Event. Upon the occurrence of a Triggering Event any supply obligations of the Parties will be as set forth in Article 13 of the IMFS Agreement.

ARTICLE 11
MISCELLANEOUS

11.1 Force Majeure Events. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event. A Force Majeure Event shall operate to excuse a failure to perform an obligation hereunder only for the

period of time during which the Force Majeure Event renders performance impossible or infeasible and only if the Party asserting Force Majeure as an excuse for its failure to perform has provided written notice to the other Party specifying the obligation to be excused and describing the events or conditions constituting the Force Majeure Event. As used herein, "**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of the party failing to perform, including, without limitation: (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign governmental authorities or courts; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party's nonperformance hereunder.

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

11.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of each Party hereto. Neither this Agreement nor any right or obligation hereunder may be assigned or delegated by either Party in whole or in part to any other Person, other than a Wholly-Owned Subsidiary of such Party, without the prior written consent of the non-assigning Party. Any purported assignment in violation of the provisions of this Section 11.3 shall be null and void and have no effect.

11.4 Compliance with Laws and Regulations. Each of the Parties shall comply with, and shall use reasonable efforts to require that its respective subcontractors comply with, Applicable Laws relating to this Agreement and the performance of a Party's rights hereunder.

11.5 Notice. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, (c) the expiration of five (5) Business Days after the day when mailed in the United States by certified or registered mail, postage prepaid, or (d) delivery in Person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

In the case of the IM Flash Singapore, LLP:

IM Flash Singapore, LLP
c/o Allen & Gledhill
One Marina Boulevard #28-00

Singapore 018989
Attention: Lee Kim Shin / Oh Hsiu Hau
Facsimile Number: +65 6327 3800

With a mandatory copy to:

Intel Corporation
2200 Mission College Blvd.
Mail-Stop SC4-203
Santa Clara, CA 95054
Attention: General Counsel
Facsimile Number: (408) 653-8350

In the case of Micron Singapore:

Micron Semiconductor Asia Pte. Ltd.
990 Bendemeer Rd.
Singapore 339942
Attention: Jen Kwong Hwa
Facsimile Number: +65 62903690

With a mandatory copy to:

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

Either Party may change its address for notices upon giving ten (10) days' written notice of such change to the other Party in the manner provided above.

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

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

faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

11.8 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

11.9 Amendment. This Agreement may not be modified or amended except by a written instrument executed by or on behalf of each of the Parties to this Agreement.

11.10 Entire Agreement. This Agreement and the applicable provisions of the Confidentiality Agreement, which are incorporated herein and made a part hereof, together with the Exhibits and Schedules hereto and the agreements and instruments expressly provided for herein, constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

11.11 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the Republic of Singapore, without giving effect to the principles of conflict of laws thereof.

11.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.

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

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

11.15 Insurance. Without limiting or qualifying the Joint Venture Company's liabilities, obligations, or indemnities otherwise assumed by the Joint Venture Company pursuant to this Agreement, the Joint Venture Company shall maintain, at no charge to Micron Singapore, with companies acceptable to Micron Singapore:

(a) Commercial General Liability with limits of liability not less than $[***]

per occurrence and including liability coverage for bodily injury or property damage (1) assumed in a contract or agreement pertaining to The Joint Venture Company's business and (2) arising out of The Joint Venture Company's products, Services, or work. The Joint Venture Company's insurance shall be primary with respect to liabilities assumed by The Joint Venture Company in this Agreement to the extent such liabilities are the subject of the Joint Venture Company's insurance, and any applicable insurance maintained by Micron Singapore shall be excess and non-contributing. The above coverage shall name Micron Singapore as additional insured as respects The Joint Venture Company's work or services provided to or on behalf of Micron Singapore.

(b) Automobile Liability Insurance with limits of liability not less than $[***] per accident for bodily injury or property damage.

(c) Statutory Workers' Compensation coverage, including a Broad Form All States Endorsement in the amount required by law, and Employers' Liability Insurance in the amount of $[***] per occurrence. Such insurance shall include mutual insurer's waiver of subrogation.

[*Signature page follows*]

IN WITNESS WHEREOF, this Agreement has been duly executed by and on behalf of the Parties hereto as of the Effective Date.

MICRON SEMICONDUCTOR ASIA PTE. LTD.

By: /s/ Alice Koh

Name: Alice Koh

Title: Authorized Signatory

THIS IS THE SIGNATURE PAGE FOR THE SUPPLY AGREEMENT ENTERED INTO BY AND BETWEEN MICRON SEMICONDUCTOR ASIA PTE. LTD. AND IM FLASH SINGAPORE, LLP

EXHIBIT A
DEFINITIONS

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

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

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

"**Approved Business Plan**" shall have the meaning set forth in the IMFS Agreement.

"**Assembly Outs**" shall mean a Product for which the Assembly Services have been completed and meets all of the Assembly Specification applicable at such time and is not Secondary Silicon or Rejects.

"**Business Continuity Plan**" shall have the meaning set forth in Section 2.10 hereof.

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

"**Capacity**" means the rate of output (defined in terms of units per time period), at a particular point in time, at which a particular Facility or set of Facilities of the Joint Venture Company (or of a third party on the Joint Venture Company's behalf) is capable of producing such units.

"**Confidential Information**" shall have the meaning set forth in Section 7.1 hereof.

"**Confidentiality Agreement**" means that Amended and Restated Mutual Confidentiality Agreement by and among the Joint Venture Company, Intel, Micron, Intel Singapore, Micron Singapore and IMFT dated as of the Effective Date.

"**Custom Products**" shall have the meaning set forth in the Product Designs Committee Agreement.

"**Cycle Time**" means the time required to process a unit through a portion of the manufacturing process (e.g., fab, assembly, or final test) or through the manufacturing process as a whole.

"**Demand Forecast**" shall have the meaning set forth in Section 3.1(a) hereof.

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

"**Excursion**" means an occurrence, either during production or after customer delivery that is outside normal historical behavior as established by both Parties in writing in the applicable Specifications which may impact performance, Quality and Reliability, or customer delivery commitments for Probed Wafers, NAND Flash Memory Product or Known Good Die.

"**Facilities**" shall mean all of the Joint Venture Company's facilities at which it may perform manufacturing, assembly or test services, including subcontractors.

"**Fiscal Quarter**" means any of the four financial accounting quarters within the Joint Venture Company's Fiscal Year.

"**Fiscal Month**" means any of the twelve financial accounting months within the Joint Venture Company's Fiscal Year.

"**Fiscal Year**" means the fiscal year of the Joint Venture Company for financial accounting purposes.

"**Flash Memory Integrated Circuit**" shall have the meaning set forth in the IMFS Agreement.

"**Force Majeure Event**" shall have the meaning set forth in Section 11.1.

"**GAAP**" means United States generally accepted accounting principles as in effect from time to time.

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

"**Hazardous Materials**" means dangerous goods, chemicals, contaminants, substances, pollutants or any other materials that are defined as hazardous by relevant local, state, national, or international law, regulations and standards.

"**IMFS Agreement**" means the Limited Liability Partnership Agreement of the Joint Venture Company by and between Intel Singapore and Micron Singapore dated as of the Effective Date.

"**IMFT**" means IM Flash Technologies, LLC, a Delaware limited liability company.

"**Indemnified Party**" shall mean any of the following to the extent entitled to seek indemnification under this Agreement: Micron Singapore, the Joint Venture Company, and their respective Affiliates, officers, directors, employees, agents, assigns and successors.

"**Indemnified Losses**" shall mean all direct, out-of-pocket liabilities, damages, losses, costs and expenses of any nature incurred by an Indemnified Party, including reasonable attorneys' fees and consultants' fees, and all damages, fines, penalties and judgments awarded or

entered against an Indemnified Party, but specifically excluding any special, consequential or other types of indirect damages.

"**Indemnifying Party**" shall mean the Party owing a duty of indemnification to another Party with respect to a particular Third Party Claim.

"**Initial Business Plan**" shall have the meaning set forth in the IMFS Agreement.

"**Intel**" means Intel Corporation, a Delaware corporation.

"**Intel Singapore**" means Intel Technology Asia Pte Ltd, a Singapore private limited company.

"**Joint Development Program Agreement**" shall mean the Joint Development Program Agreement by and between Micron and Intel dated January 6, 2006.

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

"**Joint Venture Documents**" shall have the meaning set forth in the IMFS Agreement.

"**Known Good Die**" means a raw wafer that has been processed to the point of containing functional and/or operational NAND Flash Memory Integrated Circuits that has undergone Probe Testing (a.k.a. "Sort" procedure), meeting predefined performance and quality criteria and singulated to individual semiconductor die. Die will have been fully tested but will not been assembled into final packaging or undergone final product testing.

"**Liquidation Date**" shall have the meaning set forth in the IMFS Agreement.

"**Losses**" shall mean, collectively, any and all insurable liabilities, damages, losses, costs and expenses (including reasonable attorneys' and consultants' fees and expenses).

"**Manufacturing Committee**" shall have the meaning set forth in the Omnibus Agreement.

"**Members**" means Micron Singapore and Intel Singapore.

"**Micron**" shall mean Micron Technology, Inc., a Delaware Company.

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

"**Minority Closing**" shall have the meaning set forth in the IMFS Agreement.

"**Modified GAAP**" shall have the meaning set forth in the IMFS Agreement.

"**NAND Flash Memory Integrated Circuit**" means a Flash Memory Integrated Circuit, in the memory cells included in the Flash Memory Integrated Circuit are arranged in groups of

serially connected memory cells (each such group of serially connected memory cells called a "string") in which the drain of each memory cell of a string (other than the first memory cell in the string) is connected in series to the source of another memory cell in such string, the gate of each memory cell in such string is directly accessible, and the drain of the uppermost bit of such string is coupled to the bitline of the memory array.

"**NAND Flash Memory Product**" shall have the meaning set forth in the IMFS Agreement.

"**NAND Flash Memory Wafer"** means a raw wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor die.

"**Omnibus Agreement**" shall mean the Omnibus Agreement by and between Intel and Micron dated as of the Effective Date.

"**Omnibus IP Agreement**" shall mean the Omnibus IP Agreement by and among Micron, Micron Singapore, Intel, Intel Singapore, the Joint Venture Company and IMFT dated as of the Effective Date.

"**Operating Plan**" means the Manufacturing Plan, Assembly Plan and Testing Plan developed pursuant to the Definitions in the IMFS Agreement.

"**Optional Purchase Agreement**" shall mean the Optional Purchase Agreement by and between Micron and Intel dated January 6, 2006, as amended.

"**Party**" and "**Parties**" shall have the meaning set forth in the Recitals to this Agreement.

"**Performance Criteria**" means [***].

"**Person**" shall have the meaning set forth in the IMFS Agreement.

"**Planning Forecast**" shall have the meaning set forth in Section 3.1(b) hereof.

"**Price**" or "**Pricing**" means the calculation set forth on Schedule 4.8 hereof.

"**Prime Wafer**" means the raw silicon wafers required, on a product-by-product basis, for the manufacturer.

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

"**Probed Wafer**" means a Prime Wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor dice.

"**Products**" means a Probed Wafer, Known Good Die, or NAND Flash Memory Product, or such other products that are manufactured by the Joint Venture Company under Section 2.2 hereof.

"**Proposed Loading Plan**" shall have the meaning set forth in Section 3.1(c) hereof.

"**Purchase Order**" shall have the meaning set forth in Section 4.3 hereof.

"**Quality and Reliability**" or "**Q&R**" means building and sustaining relationships which assess, anticipate, and fulfill the quality and reliability standards as set forth in the Specification or Operating Plan for Products.

"**Receiving Party**" shall have the meaning set forth in Section 7.1 hereof.

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.7 hereof.

"**Secondary Silicon**" shall mean: i) a Prime Wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing would otherwise constitute a Probed Wafer but for failure to achieve qualification; or (ii) singulated and/or packaged die that would otherwise constitute Assembly Outs or Test Outs but for failure to achieve qualification; and otherwise conform to the applicable Secondary Silicon Specification.

"**Semiconductor Manufacturing Technology**" shall have the meaning set forth in the Omnibus IP Agreement.

"**Sharing Interest**" shall have the meaning set forth in the IMFS Agreement.

"**Specifications**" means those specifications used to describe, characterize, and define the quality and performance of NAND Flash Memory Products and Known Good Die, including any interim performance specifications at Probe Testing or other testing, as such specifications may be determined from time to time by the Joint Venture Company.

"**Subsidiary**" shall have the meaning set forth in the IMFS Agreement.

"**Technology License Agreement**" shall mean the Technology License Agreement by and among Micron, Intel and IMFT dated January 6, 2006, as amended.

"**Term**" shall have the meaning set forth in Section 10.1 hereof.

"**Test Outs**" shall mean a Product Candidate for which Testing Services have been completed and meets all of the Testing Specification applicable at such time and is not Secondary Silicon or Rejects.

"**Third Party Claim**" shall mean any claim, demand, action, suit or proceeding, and any actual or threatened lawsuit, complaint, cross-complaint or counter-complaint, arbitration or other legal or arbitral proceeding of any nature, brought in any court, tribunal or judicial forum anywhere in the world, regardless of the manner in which such proceeding is captioned or styled, by any Person other than Micron Singapore, the Joint Venture Company and Affiliates of the foregoing, against an Indemnified Party, in each case alleging entitlement to any Indemnified Losses pursuant to any indemnification obligation under this Agreement.

"**Triggering Event**" shall have the meaning set forth in the IMFS Agreement.

"**Under-loading**" shall have the meaning set forth in Section 4.1.

"**Wafer Start**" shall mean the initiation of manufacturing services with respect to a Prime Wafer.

"**Warranty Claim Period**" shall have the meaning set forth in Section 6.2 hereof.

"**Wholly-Owned Subsidiary**" shall have the meaning set forth in the IMFS Agreement.

"**WIP**" means work in process. This includes all wafers and Product in wafer fabrication, sort, assembly, and/or final test, including prime and secondary wafers, and all completed Product units not yet delivered to Micron Singapore.

"**Yield**" means anticipated output of Product from WIP at a particular point in time, including line yield, die yield, assembly yield and final testing yield.

SCHEDULE 4.8
PRICE

Exhibit 10.156

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

INTEL/MICRON CONFIDENTIAL

THE INTERESTS EVIDENCED BY THIS DOCUMENT ARE SUBJECT TO RESTRICTIONS ON ASSIGNMENT AND TRANSFER SET FORTH HEREIN. IN ADDITION, THE INTERESTS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAW AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED UNTIL REGISTERED OR UNTIL THE BOARD OF MANAGERS HAS RECEIVED AN OPINION OF LEGAL COUNSEL, OR OTHER ASSURANCES SATISFACTORY TO THAT BOARD, THAT AN INTEREST MAY LEGALLY BE SOLD OR OTHERWISE TRANSFERRED WITHOUT REGISTRATION, ALL AS PROVIDED IN THIS DOCUMENT.

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

IM FLASH TECHNOLOGIES, LLC

BY AND BETWEEN

MICRON TECHNOLOGY, INC. AND INTEL CORPORATION

FEBRUARY 27. 2007

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EXHIBITS

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

IM FLASH TECHNOLOGIES, LLC

This **AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT** (this "**Agreement**") of IM Flash Technologies, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), is made and entered into as of this 27th day of February, 2007, by and between Micron Technology, Inc., a Delaware corporation ("**Micron**"), and Intel Corporation, a Delaware corporation ("**Intel**") (Micron and Intel are each referred to individually as a "**Member**," and collectively as the "**Members**"). Capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Appendix A to this Agreement or as otherwise provided in Section 18.14.

RECITALS

A. Micron and Intel previously entered into that certain Limited Liability Company Operating Agreement of IM Flash Technologies, LLC, dated January 6, 2006 (the "**Original Agreement**").

B. Micron and Intel desire to amend and restate the terms and conditions of the Original Agreement as set forth in this Agreement.

ARTICLE 1.
ORGANIZATIONAL MATTERS

1.1 The Joint Venture Company. The Joint Venture Company is a limited liability company organized under the Delaware Limited Liability Company Act (Del. Code Ann. tit. 6 §§ 18-101 et seq.), as amended from time to time (the "**Act**"), and governed by the terms and conditions set forth in this Agreement. The Joint Venture Company is a Delaware limited liability company as a result of the filing of a certificate of formation (the "**Certificate**") in the office of the Delaware Secretary of State in accordance with the Act.

1.2 Name. The name of the Joint Venture Company is "IM Flash Technologies, LLC."

1.3 Term. The initial term of the business of the Joint Venture Company shall continue until the earlier of the tenth anniversary of the Effective Date and the termination of the Joint Venture Company prior to such date in accordance with this Agreement (the "**Initial Term**"). Such Initial Term may be extended by mutual written agreement of the Members at least [***] prior to the expiration of the Initial Term or any Renewal Term (any such extensions to be on such terms and for such period as set forth in writing and agreed to by the Members) (each such extended term, a "**Renewal Term**," and together with the Initial Term, the "**Term**").

1.4 Purpose of the Joint Venture Company; Business. The purpose of the Joint Venture Company shall be (A) to engage in the business of manufacturing for the Members NAND Flash Memory Products in various forms, including NAND Flash Memory Wafers, and such other forms of memory products as may be determined by the Board of Managers from time to time, and related memory product manufacturing development activities, (B) to enter into any other lawful business, purpose or activity in which a limited liability company may be engaged under Applicable Law (including the Act), as the Members may determine from time to time, subject to and in accordance with the terms and conditions of this Agreement, and (C) to enter into any lawful transaction and engage in any lawful activities in furtherance of the foregoing purposes and as may be necessary or incidental to, connected with or arising out of the foregoing purposes in accordance with the terms and conditions of this Agreement; *provided*, *however*, that a Member having an Economic Interest above [***] percent ([***]%) may, in its sole discretion, include the manufacture of other forms of memory products in the purpose of the Joint Venture Company (other than (i) [***] if such Member is Intel and (ii) Intel [***] if such Member is Micron), so long as the amount, delivery schedule, pricing and terms of the other Member's supply of Joint Venture Products remain as they existed immediately prior to the time at which the decision to include the manufacture of such other forms of memory products is made.

1.5 Principal Place of Business; Other Places of Business; Registered Office and Agent.

(A) The principal place of business and mailing address of the Joint Venture Company shall be IM Flash Technologies, LLC, 1550 East 3400 North, Lehi, Utah 84043, or such other address within or outside of the State of Delaware as the Board of Managers may from time to time designate. The Board of Managers may change the principal place of business of the Joint Venture Company to such other place or places within or outside the State of Delaware as the Board of Managers may from time to time determine, in its sole and absolute discretion and, if necessary, the Board of Managers shall cause the Certificate to be amended in accordance with the applicable requirements of the Act to effectuate the change in the principal place of business.

(B) Other places of business of the Joint Venture Company shall initially be in Boise, Idaho and Manassas, Virginia. The Joint Venture Company may maintain offices and places of business at such other place or places within or outside the State of Delaware as the Board of Managers may deem to be advisable.

(C) The registered office of the Joint Venture Company in the State of Delaware shall be Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, and the initial registered agent for service of process at such registered office shall be The Corporation Trust Company. The registered office and the registered agent may be changed from time to time by the Board of Managers, by causing the prescribed form, accompanied by the requisite filing fee, to be filed with the Delaware Secretary of State in accordance with the Act.

1.6 Fictitious Business Name Statement; Other Certificates. The Authorized Officers, or the Chief Executive Officer, as applicable, shall, from time to time, cause the Joint Venture Company to be registered as a foreign limited liability company and to file fictitious or trade

name statements or certificates in those jurisdictions and offices as the Board of Managers considers necessary or appropriate. The Joint Venture Company may engage in business activities under any fictitious business names selected by the Board of Managers. The Authorized Officers, or the Chief Executive Officer, as applicable, shall, from time to time, file or cause to be filed certificates of amendment, certificates of cancellation, or other certificates as the Board of Managers reasonably considers necessary or appropriate under the Act or under the laws of any jurisdiction in which the Joint Venture Company is doing business to establish and continue the Joint Venture Company as a limited liability company or to protect the limited liability of the Members.

1.7 Admission of Members. Intel and Micron hereby confirm and agree to their status as Members of the Joint Venture Company upon the execution of this Agreement.

1.8 Supply Agreements. Intel and Micron have entered into the Supply Agreements with the Joint Venture Company pursuant to which, subject to the terms and conditions set forth in the applicable Supply Agreement, each Member shall purchase from the Joint Venture Company, and the Joint Venture Company shall supply to each Member, a percentage of the Joint Venture Company's output of Products equal to such Member's Sharing Interest.

ARTICLE 2.
CAPITALIZATION

2.1 Initial Capital Contributions of the Members.

(A) Intel Initial Capital Contribution. The Members acknowledge and agree that Intel delivered to the Joint Venture Company all of the Intel Initial Contributed Assets, as identified on Appendix D. These transactions shall be treated by Intel and the Joint Venture Company as the Initial Capital Contribution by Intel of the Intel Initial Contributed Assets in the manner and with a value as set forth on Appendix D.

(B) Micron Initial Capital Contribution. The Members acknowledge and agree that Micron delivered to the Joint Venture Company all of the Micron Initial Contributed Assets, as identified on Appendix D. These transactions shall be treated by Micron and the Joint Venture Company as the Initial Capital Contribution by Micron of the Micron Initial Contributed Assets in the manner and with a value as set forth on Appendix D.

2.2 Initial Capital Contribution Reserve. The Joint Venture Company shall use all funds contributed (either in cash or pursuant to a promissory note, in accordance with Appendix D) as Initial Capital Contributions before permitting any Additional Capital Contributions. Moreover, the Intel Additional Cash and the Micron Additional Cash shall be transferred to a reserve account promptly after such funds are delivered to the Joint Venture Company. Such monies shall be invested in such investment or investments as the Board of Managers may hereafter designate and shall not be expended by the Joint Venture Company until such time as all other funds contributed as Initial Capital Contributions of the Members have been expended. Such amounts shall be deemed to be necessary reserves for purposes of distributions under Section 5.1(A).

2.3 Additional Capital Contributions.

(A) [***] Capital Contributions. In addition to the Initial Capital Contributions, each Member shall make Capital Contributions to the Joint Venture Company equal to its [***] Capital Contributions; *provided*, *however*, that in no event shall (1) Intel be obligated to make [***] Capital Contributions in the aggregate in excess of the Intel Maximum Incremental Capital Amount, or (2) Micron be obligated to make [***] Capital Contributions in the aggregate in excess of the Micron Maximum Incremental Capital Amount. Such [***] Capital Contributions shall be made in quarterly installments on the twenty-fifth (25th) day of each Fiscal Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in amounts equal to the sum of (a) the amounts required for the remainder of the Fiscal Quarter in which the [***] Capital Contributions are made and (b) the amounts required for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution.

(B) [***] Capital Contributions. Except as mutually agreed in writing by both Members, each Member may, but shall not be required to, make Capital Contributions to the Joint Venture Company equal to its [***] Capital Contribution. Such [***] Capital Contributions shall be made in quarterly installments on the twenty-fifth (25th) day of each Fiscal Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in an amount equal to the sum of (a) the amounts of the [***] Capital Contributions scheduled for the remainder of the Fiscal Quarter in which the [***] Capital Contributions are made and (b) the amounts of the [***] Capital Contributions scheduled for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution.

(C) Other Capital Contributions. Except as mutually agreed in writing by both Members, each Member may, but shall not be required to, make Capital Contributions (other than [***] Capital Contributions and [***] Capital Contributions) to the Joint Venture Company equal to its [***] as set forth in the Annual Budget included in the Approved Business Plan for the Fiscal Year in which the contributions are to be made. Any such Capital Contributions shall be made in quarterly installments on the twenty-fifth (25th) day of each Fiscal Quarter of the Joint Venture Company (or if such day is not a Business Day, then on the next Business Day after such day) in an amount equal to the sum of (a) the amounts of such Capital Contributions scheduled for the remainder of the Fiscal Quarter in which such Capital Contributions are made and (b) the amounts of such Capital Contributions scheduled for the first twenty-five (25) days of the upcoming Fiscal Quarter (or if such day is not a Business Day, then through the next Business Day after such day), each as set forth in the Approved Business Plan in effect at the time of such contribution. Such contributed funds are hereinafter referred to as the "**Other Capital Contributions**" and, together with the [***] Capital Contributions and the [***] Capital Contributions, the "**Additional Capital Contributions**."

(D) No Other Contributions. Except as set forth in Sections 2.1 and 2.3(A), in the Joint Venture Documents and such other contributions as the Members may agree in writing shall be required, no Member shall be required to make any Capital Contributions to the Joint Venture Company, and, except as contemplated by Section 2.3(B), 2.3(C) and 2.4, in the Joint Venture Documents and such other contributions as the Members may agree in writing may be

made (and except for Make-Up Contributions and any deemed contributions of amounts outstanding under Member Notes), no additional Capital Contribution to the Joint Venture Company shall be made by either Member without the consent of the other Member.

(E) Coordination. The Members shall coordinate with each other regarding, and provide each other with advance written notice of, the timing of their delivery of each Additional Capital Contribution.

(F) Partial Contributions. In the event that any Member determines to contribute less than its [***] of any Additional Capital Contribution, such Member shall provide notice of such determination specifying the amount of such Additional Capital Contribution it intends to make, if any. Such notice shall be provided to the Joint Venture Company and to the other Member as soon as practicable after such determination is made, but in any event not less than ten (10) Business Days prior to the date such Additional Capital Contribution is to be made. Any failure or delay in providing such notice shall not affect the right of any Member to refrain from providing such Additional Capital Contribution, nor shall it result in any liability for damages. Subject to Section 3.1, to the extent that a Member contributes less than its [***] of any Additional Capital Contribution for a given Fiscal Quarter, the other Member shall have the right to reduce its contribution proportionately. In the event that such other Member has already remitted any amount in respect of its Additional Capital Contribution, the Joint Venture Company shall, upon such other Member's request and at its option, return such amount or deem all or a portion of such contribution to be Member Debt Financing hereunder. Any amount so requested to be returned or refunded shall be remitted to the requesting Member immediately by wire transfer of immediately available funds. The amount contributed for such Fiscal Quarter by the non-contributing Member (and the other Member, if its contribution is proportionately reduced) shall be applied in the following order:

(1) *First*, to satisfy the obligation of such Member to contribute its [***] of any [***] Capital Contribution for such Fiscal Quarter;

(2) *Second*, the remainder, if any, to fulfill the Member's [***] of the amount, if any, of any Other Capital Contribution for such Fiscal Quarter relating to an Operational Fab;

(3) Third, the remainder, if any, to fulfill the Member's [***] of the amount, if any, of any Other Capital Contribution for such Fiscal Quarter relating to matters not addressed in the immediately preceding clause (2); and

(4) *Fourth*, the remainder, if any, to fulfill the Member's [***] of any amount of the [***] Capital Contribution for such Fiscal Quarter to be applied to a [***] under the [***] Budget, and if there is [***] such [***], each of such [***] in the order in which they appear on the the [***] Schedule.

(G) Priority of Contributions. Each Member shall contribute [***] of the cumulative aggregate [***] Capital Contributions theretofore due (and shall pay any interest accrued thereon at the rate provided in Section 2.4(A)(3) as a result of such Member's failure to make such contributions at the times and in the amounts required pursuant to Section 2.3(A))

other than any [***] Capital Contributions as to which the obligation to contribute has been terminated pursuant to Section 2.4(A)(2), before it may make any other Capital Contributions, including any [***] Capital Contributions (including by way of Make-Up Contributions), or any Other Capital Contribution or any Member Debt Financing; *provided, however*, that for purposes of this Section 2.3(G), a Member's [***] of an Additional Capital Contribution shall be deemed to exclude any shortfall of an [***] Capital Contribution (1) for which the Joint Venture Company, or the other Member acting on its behalf, has not demanded payment or pursued any claim for payment and (2) any portion of which the Member is restricted from contributing, or the Joint Venture Company is restricted from paying, under Article 2 or Article 3.

(H) Interim Loan. Each remittance of funds in respect of a Member's [***] of an Additional Capital Contribution pursuant to this Section 2.3 shall, upon receipt by the Joint Venture Company of such funds, be deemed to be a loan (which shall bear no interest) to the Joint Venture Company of the entire amount so delivered until the other Member remits funds in respect of its [***] of such Additional Capital Contribution. At such time:

(1) if both Members have remitted amounts equal to their respective [***] of the Additional Capital Contribution in full, all such amounts shall be deemed Additional Capital Contributions (whereupon the respective amounts remitted by the Members shall no longer be deemed loans and shall be added to the Members' respective Capital Contribution Balances);

(2) if there is a Shortfall Amount, the amount actually remitted by the Non-Funding Member shall be deemed an Additional Capital Contribution by such Member (and such amount shall no longer be deemed a loan and shall be added to the Non-Funding Member's Capital Contribution Balance), and a portion of the amount actually remitted by the Funding Member equal to the product of (a) the Funding Member's [***] of such Additional Capital Contribution (whether or not contributed in full) *multiplied* by (b) a fraction, the numerator of which is the amount actually remitted by the Non-Funding Member and the denominator of which is the Non-Funding Member's [***] of the Additional Capital Contribution shall be deemed an Additional Capital Contribution (and such amount shall be added to the Funding Member's Capital Contribution Balance). In such event, the remainder of the amount remitted by the Funding Member shall continue to be a loan to the Joint Venture Company until: (i) the return of all or a portion of such remaining funds upon the receipt by the Joint Venture Company of instructions from such Member to return all or a portion of such funds to the Member pursuant to Sections 2.3(F), 2.4(A)(1), 2.4(C) or 3.1(A); (ii) the Funding Member instructs the Joint Venture Company to deem all or a portion of such remaining funds an Additional Capital Contribution (whereupon all or such portion of such funds shall be added to the Member's Capital Contribution Balance); or (iii) the Funding Member instructs the Joint Venture Company to deem all or a portion of such funds to be Member Debt Financing; *provided* that if the Joint Venture Company has not received instructions pursuant to subparagraphs (i), (ii) or (iii) above within fifteen (15) days of the date the applicable Additional Capital Contribution was due, the Joint Venture Company shall contact such Member to request such instruction.

2.4 Shortfalls in Contributions.

(A) [***] Capital Contribution Shortfall.

(1) If a Member fails to remit in full its [***] Capital Contribution, at the time and in the amount required pursuant to Section 2.3(A), the other Member, if it has remitted its [***] of such [***] Capital Contribution, may, at its election, (a) require that the Joint Venture Company return the remitting Member's share of such [***] Capital Contribution to such remitting Member in part or in full, (b) make a Capital Contribution to the Joint Venture Company of any or all of the shortfall or (c) provide Optional [***] Financing in accordance with Section 3.2.

(2) To the extent the other Member elects to contribute or loan the shortfall under Section 2.4(A)(1)(b) or (c) above, such other Member may elect, by written notice to the Joint Venture Company and the non-contributing Member, to terminate the right and obligation of the non-contributing Member to contribute any unpaid portion of such non-contributing Member's [***] of the [***] Capital Contribution that the non-contributing Member failed to pay.

(3) The other Member, if it has remitted its [***] of the [***] Capital Contribution, may direct the Joint Venture Company under Section 7.5 to (or may, on behalf of the Joint Venture Company) demand payment and pursue a claim against the non-contributing Member for payment. The non-contributing Member shall be obligated to pay interest (which interest shall not be treated as a Capital Contribution) on such uncontributed amount at [***] (as in effect on the date such contribution was scheduled to be made and adjusted every [***]), compounded [***], from the date such [***] Capital Contribution is due until the date it is paid. The Member that did not make an [***] Capital Contribution it was required to make under the terms of this Agreement shall pay to the Joint Venture Company and the other Member all costs, including attorneys' fees, incurred by the Joint Venture Company and the other Member, respectively, in pursuing such claim for payment (which payments shall not be treated as Capital Contributions). Such Member shall not be liable for any additional damages. If the Joint Venture Company recovers against the non-contributing Member, the funds collected from the non-contributing Member shall be applied first to the payment in full of costs theretofore incurred by the Joint Venture Company or the other Member in the pursuit of the claim for payment against the non-contributing Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of the delinquent portion of the [***] Capital Contribution (and such amount shall be added to the Capital Contribution Balance of the non-contributing Member). In addition, upon such payment by the non-contributing Member, (a) if a related Optional [***] Shortfall Note is then outstanding, the provisions of Section 3.2(D) (subject to Section 3.2(E)) shall apply and (b) if no related Optional [***] Shortfall Note is then outstanding, but the other Member has remitted to the Joint Venture Company the amount that the non-contributing Member was required to make, then the Joint Venture Company shall immediately refund to the contributing Member an amount equal to the non-contributing Member's payment that was treated as a Capital Contribution, and the Capital Contribution Balance of the contributing Member shall be reduced by such amount.

(4) If, after a failure by a Member to timely make a Capital Contribution of its [***] of an [***] Capital Contribution that it was required to make under the terms of this Agreement, such Member wishes to make any payment with respect to such portion of the [***] Capital Contribution (and the ability to make such contribution has not been terminated pursuant to Section 2.4(A)(2)), the Joint Venture Company, with the consent of the other Member (which consent shall not be necessary if an action to collect such amount has been commenced by or at the direction of such other Member), shall accept such payment and apply it first to the payment in full of costs theretofore incurred by the Joint Venture Company or the other Member in the pursuit of a claim for payment against the non-contributing Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of the delinquent portion of the [***] Capital Contribution (and such amount shall be added to the Capital Contribution Balance of such Member). In addition, upon such payment by the non-contributing Member, (a) if a related Optional [***] Shortfall Note is then outstanding, the provisions of Section 3.2(D) (subject to Section 3.2(E)) shall apply and (b) if no related Optional [***] Shortfall Note is then outstanding, but the other Member has remitted to the Joint Venture Company the amount that the non-contributing Member was required to make, then the Joint Venture Company shall immediately refund to the contributing Member an amount equal to the non-contributing Member's payment that was treated as a Capital Contribution, and the Capital Contribution Balance of the contributing Member shall be reduced by such amount.

(5) Notwithstanding any provision hereof to the contrary, the failure by a Member to contribute in [***] of any [***] Capital Contribution shall not constitute a Liquidating Event.

(B) [***] Capital Contribution Shortfall. If a Member does not remit in [***] of any [***] Capital Contribution at the time and in the full amount permitted pursuant to Section 2.3(B), the provisions of Section 3.1 shall apply.

(C) Other Capital Contribution Shortfall. If a Member does not remit [***] of any Other Capital Contribution, at the time and in the full amount permitted pursuant to Section 2.3(C), the other Member, if it has remitted its [***] of such Other Capital Contribution may, at its election, (1) require that the Joint Venture Company [***] of such Other Capital Contribution to the remitting Member in part or in full, (2) make a [***] to the Joint Venture Company of any or all of the shortfall or (3) provide Optional Other Financing in accordance with Section 3.3.

2.5 Miscellaneous Capital Provisions.

(A) Capital Contributions shall be credited to the Capital Account of the contributing Member to the extent provided in Article 4 of this Agreement.

(B) No interest shall be paid to a Member on Capital Contributions. A Member shall not be entitled to withdraw any of its Capital Contributions except as provided in Section 2.3(F), 2.4 or Section 3.1.

(C) Except as otherwise provided in Article 13 or as otherwise agreed in writing by the Members, a Member receiving a return of all or any portion of its Capital Contribution shall have no right to receive a particular type of property or a particular asset.

(D) Any Capital Contributions to the Joint Venture Company to be made in cash shall be made by the Members by wire transfer of immediately available funds to the Joint Venture Company or its designated agent.

(E) Except as otherwise provided in Section 2.4 or Article 3 or for trade credit for services or goods provided by a Member to the Joint Venture Company under any Joint Venture Document or any other agreement that has been approved as required in this Agreement, no Member shall advance funds or make loans to the Joint Venture Company without the approval of the Board of Managers. Any such approved advances or loans by a Member shall not be Capital Contributions and shall not result in any increase in the amount of such Member's Capital Contribution Balance or entitle such Member to any increase in its Percentage Interest, except as otherwise provided in Section 2.4 or Article 3. The amount of such advances or loans shall be a debt of the Joint Venture Company to such Member and (unless such loan is subject to a written guaranty or other written agreement governing the liability of another party with respect thereto) shall be payable or collectible only out of the assets of the Joint Venture Company.

(F) Except as provided in Section 5.2(C), the Joint Venture Company shall not make loans to, or guaranty any indebtedness of, any Member or any other Person other than a U.S. Facilities Company; *provided*, *however*, that the provisions of this Section 2.5(F) shall not prohibit the Joint Venture Company from providing payment terms to the Members for Joint Venture Products manufactured by the Joint Venture Company on behalf of the Members pursuant to any Joint Venture Document or any other agreement that has been approved as provided in this Agreement.

2.6 Contributions After a Change in Consolidating Member. Notwithstanding anything in this Article 2 to the contrary, following a Change in Consolidating Member:

(A) with respect to any Additional Capital Contribution, (1) the amount of the [***] Member's [***] that the [***] Member is required or permitted to make pursuant to this Article 2 shall be reduced to the amount that would not result in the occurrence of [***] Member or in the reduction of the [***] Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest, and (2) the [***] Member shall become entitled to contribute the [***] Contribution Amount; *provided*, *however*, that if the [***] Member fails to make such Additional Capital Contribution (or provide Member Debt Financing, if applicable) in an amount equal to the full [***] Contribution Amount then the limitations set forth in this Section 2.6(A) shall not apply with respect to such Additional Capital Contribution; and

(B) any payment by the Joint Venture Company to such [***] Member shall not equal or exceed the amount that would result in the occurrence of [***] Member or in the reduction of the [***] Member's Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest.

ARTICLE 3.
MEMBER DEBT FINANCING

3.1 Mandatory Member Debt Financing.

(A) This Section 3.1 shall apply if (1) there occurs a Shortfall Amount in respect of a [***] Capital Contribution pursuant to Section 2.4(B), (2) the Non-Funding Member has contributed its [***] of all previously required [***] Capital Contributions and (3) the other Member has become the "**Funding Member**" as a result of (a) such other Member's timely remittance of its [***] of such [***] Capital Contribution (after giving effect to the return of any amount so remitted which such Member requests or any increase in such amount contributed by such Member, up to its [***] of such [***] Capital Contribution, after receiving notice from the Joint Venture Company that the other Member has not timely delivered its [***] of the [***] Capital Contribution), or (b) if neither Member has timely remitted the amount of its [***] of such [***] Capital Contribution, such other Member's remittance of a greater percentage of its [***] of such [***] Capital Contribution than the other Member (after giving effect to the return of any amount so remitted which such Member requests or any increase in such amount contributed by such Member, up to its [***] of such [***] Capital Contribution, after receiving notice from the Joint Venture Company that neither Member has timely delivered its [***] of the [***] Capital Contribution). In such event, the Funding Member shall (y) promptly provide Member Debt Financing to the Joint Venture Company in an amount equal to the Loan Amount and (z) the Funding Member Portion shall be deemed to have been provided as Member Debt Financing, rather than as a Capital Contribution, to the Joint Venture Company. However, if the Shortfall Amount is less than $[***], then the Funding Member may elect not to provide the Mandatory Member Debt Financing and, in such case, the Joint Venture Company shall return to each Member the portion of the [***] Capital Contribution actually remitted by such Member. Furthermore, a Funding Member shall not be required to provide Mandatory Member Debt Financing with respect to a [***] Capital Contribution under a [***] that is part of a Disputed Approved Business Plan proposed by the Non-Funding Member. No Funding Member shall be obligated to provide more than $[***] of Mandatory Member Debt Financing outstanding at any time (not including any Mandatory Equalization Note) with respect to Shortfall Amounts caused by a given Non-Funding Member.

(B) In exchange for the Mandatory Member Debt Financing, the Joint Venture Company shall issue to the Funding Member two convertible notes, one having a principal balance equal to the Loan Amount (the "**Mandatory Shortfall Note**"), and the other having a principal balance equal to the Funding Member Portion (the "**Mandatory Equalization Note**" and, together with the related Mandatory Shortfall Note, the "**Mandatory Notes**"), in the form attached hereto as Exhibit A.

(C) Each Mandatory Note issued in accordance with this Section 3.1 shall have [***] term, subject to Section 3.1(E). For the first [***] of the term of a Mandatory Shortfall Note, such Mandatory Shortfall Note shall bear interest at [***] (as in effect on the issue date (the "**Issuance Date**") thereof and adjusted every [***]),[***] basis points per annum, compounded [***]. Thereafter, until the end of the [***] term, such Mandatory Shortfall Note shall bear interest at [***], adjusted every [***], compounded [***]. No Mandatory Equalization Note shall [***].

(D) (1) At any time after the Issuance Date of a Mandatory Shortfall Note in accordance with this Section 3.1 and prior to the expiration of the [***] term of such Mandatory Shortfall Note, the Non-Funding Member may, upon three (3) Business Days' notice to the Joint Venture Company and the Funding Member, make one or more Make-Up Contributions to the Joint Venture Company in an aggregate amount up to the outstanding principal balance of the Mandatory Shortfall Note. Each Make-Up Contribution shall be accompanied by a payment equal to the accrued interest on the corresponding Mandatory Shortfall Note, which interest payment shall not be deemed to be a Capital Contribution. If the Make-Up Contribution is less than the entire amount of principal and accrued interest on a Mandatory Shortfall Note, the Make-Up Contribution shall be deemed to be a payment applied first to all accrued interest and then to principal on such Mandatory Shortfall Note (and the amount so treated as a payment with respect to accrued interest shall not be treated as a Capital Contribution). If a Member is the Non-Funding Member with respect to more than one Mandatory Shortfall Note outstanding at the time of such contribution, the Non-Funding Member shall specify the Mandatory Shortfall Note to which a Make-Up Contribution applies (or, if no such specification is made, the Make-Up Contribution will be used to repay the Mandatory Shortfall Note that is closest to its maturity date). Upon receipt of such funds, the Joint Venture Company shall immediately repay to the Funding Member the portion of the outstanding principal balance of and accrued interest on the Mandatory Shortfall Note in an amount equal to the Make-Up Contribution plus any accrued interest on the amount of such Make-Up Contribution. At such time, the following shall occur: (a) the amount of the Make-Up Contribution equal to the principal balance of the Mandatory Shortfall Note so repaid shall be deemed to be a Capital Contribution by the Non-Funding Member and such amount shall be added to the Capital Contribution Balance of the Non-Funding Member; and (b) a percentage of the outstanding principal balance of the related Mandatory Equalization Note equal to the percentage of the principal balance of the Mandatory Shortfall Note repaid shall convert into a Capital Contribution by the Funding Member, whereupon such amount shall be added to the Capital Contribution Balance of the Funding Member.

(2) To the extent excess cash is available in accordance with Section 5.1 at any time to make payments on any Mandatory Notes, if the Funding Member elects, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distributions under Section 5.1, to receive such payments, the Joint Venture Company shall make payments on the outstanding principal of and accrued interest on the Mandatory Shortfall Notes (with any such payment being applied first to the payment in full of accrued interest and then, to the extent of any remaining amount of such payment, to the repayment of principal) and the outstanding principal of the Mandatory Equalization Notes; *provided*, *however*, that any payment by the Joint Venture Company on the unpaid principal of a Mandatory Shortfall Note must be accompanied by a payment by the Joint Venture Company of an equal percentage of the unpaid principal of the related Mandatory Equalization Note. Upon the Funding Member's receipt of funds from the Joint Venture Company to be applied to the repayment of principal on the Mandatory Notes, the principal portions of the Mandatory Notes that were so repaid by the Joint Venture Company shall no longer be outstanding.

(E) To the extent any amount of a Mandatory Shortfall Note remains outstanding upon its maturity for any reason, the Funding Member shall elect to do one of the

following: (1) transfer to the Joint Venture Company as a Capital Contribution all or a portion of the obligations owing to the Funding Member for (a) the unpaid principal of and accrued interest on the Mandatory Shortfall Note and (b) the unpaid principal of the Mandatory Equalization Note, whereupon an amount equal to the sum of (a) and (b) shall be added to the Capital Contribution Balance of the Funding Member; or (2) permit the Mandatory Notes to become a continuing note that will remain outstanding, have a principal amount equal to the sum of (a) the principal of and accrued interest on the former Mandatory Shortfall Note and (b) the principal of the former Mandatory Equalization Note and be convertible at any time thereafter at the option of the Funding Member (a "**Continuing Mandatory Note**"), which Continuing Mandatory Note shall bear no interest and shall mature on the Liquidation Date. In the event that the Funding Member fails to make an election, the Funding Member shall be deemed to have elected to permit the Mandatory Notes to become a Continuing Mandatory Note. Upon conversion of a Continuing Mandatory Note by the Funding Member, the amount of principal of such Continuing Mandatory Note shall be added to the Capital Contribution Balance of the Funding Member. To the extent excess cash is available in accordance with Section 5.1 at any time to make payments on any Continuing Mandatory Note, if the Funding Member elects to receive such payments, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distributions under Section 5.1, the Joint Venture Company shall make such payments on the outstanding principal of the Continuing Mandatory Note. Upon the Funding Member's receipt of funds from the Joint Venture Company, the portion of the Continuing Mandatory Note that was paid by the Joint Venture Company shall no longer be outstanding.

3.2 Optional [***] Financing.

(A) In the event of a Shortfall Amount in respect of an [***] Capital Contribution, the Funding Member may, in its sole discretion, elect to extend Member Debt Financing to the Joint Venture Company (the "**Optional [***] Financing**") consisting of all or a portion of the Shortfall Amount and the related Funding Member Portion of such [***] Capital Contribution (the aggregate amount so loaned, the "**Optional [***] Loan Amount**").

(B) In exchange for the Optional [***] Financing, the Joint Venture Company shall issue to the Funding Member two convertible notes, one having a principal amount equal to the amount loaned by the Funding Member in respect of the Shortfall Amount (the "**Optional [***] Shortfall Note**") and the other having a principal amount equal to the Funding Member Portion (the "**Optional [***] Equalization Note**" and, together with the related Optional [***] Shortfall Note, the "**Optional [***] Notes**"), in the form attached hereto as Exhibit B.

(C) The Optional [***] Shortfall Notes issued in accordance with this Section 3.2 will mature on the [***] and shall bear interest at [***] (as in effect on the Issuance Date thereof and adjusted every [***]), compounded [***]. The Optional [***] Equalization Notes issued in accordance with this Section 3.2 shall bear [***] interest and will mature on the [***]. The Optional [***] Notes shall be convertible at any time. Upon conversion of the Optional [***] Notes by the Funding Member, the sum of (a) the unpaid principal of and accrued interest on the Optional [***] Shortfall Note and (b) the unpaid principal of the Optional [***] Equalization Note shall be added to the Capital Contribution Balance of the Funding Member.

(D) If the Joint Venture Company or the Funding Member, on the Joint Venture Company's behalf, demands payment and determines to pursue a collection action with respect to the Non-Funding Member's failure to deliver the Shortfall Amount relating to the [***] Capital Contribution and the Joint Venture Company recovers from the Non-Funding Member, the funds collected from the Non-Funding Member shall be applied first to the payment to the Joint Venture Company and the Funding Member, in full of the costs theretofore incurred by the Joint Venture Company or the Funding Member, respectively, in the pursuit of the claim for payment against the Non-Funding Member (and such amount shall not be treated as a Capital Contribution), then to all accrued but unpaid interest on such payment (and such amount shall not be treated as a Capital Contribution) and then to the payment of an Optional [***] Shortfall Note to the extent funds are available. At such time, the following shall occur: (1) a portion of the Make-Up Contribution recovered from the Non-Funding Member equal to the principal balance of the Optional [***] Shortfall Note so repaid shall be deemed to be a Capital Contribution by the Non-Funding Member, and such amount shall be added to the Capital Contribution Balance of the Non-Funding Member and (2) a percentage of the outstanding principal balance of the related Optional [***] Equalization Note equal to the percentage of the principal balance of the Optional [***] Shortfall Note repaid shall convert into a Capital Contribution by the Funding Member, and such amount shall be added to the Capital Contribution Balance of the Funding Member.

(E) To the extent excess cash is available in accordance with Section 5.1 at any time to make payments on any Optional [***] Notes, if the Funding Member elects to receive such payments, by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the making of the distribution under Section 5.1, the Joint Venture Company shall make payments on the outstanding principal of and accrued interest on the Optional [***] Shortfall Notes (with any such payment being applied first to the payment in full of accrued interest and then, to the extent of any remaining amount of such payment, to the repayment of principal) and the outstanding principal of the Optional [***] Equalization Notes; *provided, however*, that any payment by the Joint Venture Company on the unpaid principal on an Optional [***] Shortfall Note must be accompanied by a payment by the Joint Venture Company of an equal percentage of the unpaid principal of the related Optional [***] Equalization Note. Upon the Funding Member's receipt of funds from the Joint Venture Company, the portion of the Optional [***] Shortfall Note and related Optional [***] Equalization Note that was paid by the Joint Venture Company shall no longer be outstanding.

3.3 Optional Other Member Debt Financing.

(A) In the event of a Shortfall Amount in respect of an Other Capital Contribution, the Funding Member may, in its sole discretion, elect to extend Member Debt Financing to the Joint Venture Company (the "**Optional Other Financing**"), consisting of all or a portion of the Shortfall Amount and the related Funding Member Portion of such Other Capital Contribution.

(B) In exchange for the Optional Other Financing, the Joint Venture Company shall issue to the Funding Member a convertible note (the "**Optional Other Shortfall Note**"), in the form attached hereto as Exhibit C. The Optional Other Shortfall Note shall bear [***] interest, shall mature on the [***] and shall be convertible at any time.

3.4 Change In Committed Capital. Each time there is a change in a Member's Committed Capital, as a result of the making of a Capital Contribution or a loan evidenced by a Member Note, a payment on a Member Note, or otherwise, each Member's respective Percentage Interest, Economic Interest and Sharing Interest shall be immediately recalculated in accordance with the definitions of such terms, taking into account any delay provided for in the definition of Sharing Interest; *provided*, *however*, that in accordance with Section 2.3(H) an adjustment to the Percentage Interests of the Members relating to any funds remitted in respect of an Additional Capital Contribution to be made pursuant to Article 2 shall be made when contemplated by Section 2.3(H).

3.5 Change in Consolidating Member. Following a Change in Consolidating Member (as a result of which the Non-Funding Member becomes the Former Consolidating Member), any (A) Make-Up Contribution made by the Non-Funding Member to the Joint Venture Company or (B) payment on a Member Note by the Joint Venture Company from excess funds available in accordance with Section 5.1 shall not equal or exceed the amount that would result in the occurrence of another Change in Consolidating Member or in the reduction of the Consolidating Member's Economic Interest below the lesser of [***]% and the [***] Member's then-existing Economic Interest.

3.6 Loans Through Subsidiary. Notwithstanding any provision of this Article 3, in lieu of providing any Member Debt Financing permitted or required of a Member, such Member may elect to provide such Member Debt Financing through a Wholly-Owned Subsidiary of such Member; *provided*, *however*, that the Member, rather than such Wholly-Owned Subsidiary of the Member, shall own the Economic Interest, Sharing Interest and Committed Capital related to such Member Debt Financing and shall have all rights against the Joint Venture Company related to such Member Debt Financing.

ARTICLE 4.
CAPITAL ACCOUNTS AND ALLOCATIONS

4.1 Capital Accounts. Each Member shall have a capital account maintained in accordance with the terms of Article 2 of Appendix B to this Agreement (a "**Capital Account**").

4.2 Allocations of Book Income and Loss. Book income and Book loss for any Fiscal Year shall be allocated to the Members in the manner provided in Article 3 of Appendix B.

4.3 Tax Allocations. All items of income, gain, loss, and deduction shall be allocated among the Members for federal income tax purposes in the manner provided in Article 4 of Appendix B.

4.4 Restoration of Negative Balances. No Member with a deficit balance in its Capital Account shall have any obligation to the Joint Venture Company, to any other Member or to any third party to restore or repay said deficit balance. This Section 4.4 shall not affect any of the other rights or obligations of the Members under this Agreement or any other agreement.

ARTICLE 5.
DISTRIBUTIONS

5.1 Distributions.

(A) Unless otherwise unanimously agreed in writing by the Members, the Joint Venture Company shall not make any distributions until after the first anniversary of the Effective Date. Thereafter, subject to Articles 6, 7 and 13 and the provisions of the Act and after giving effect to all Capital Contributions or Member Debt Financing to be made on the same date under Article 2 and Article 3, respectively, the Joint Venture Company shall, subject to Section 5.1(C), make distributions of cash to the Members as set forth in this Section 5.1(A), on a [***] basis on the [***] day of each Fiscal [***] (or if such day is not a Business Day, then on the first Business Day after such day) to the extent that the Joint Venture Company's cash as of the end of the immediately preceding Fiscal [***] is in excess of the sum of (y) any amounts that have been contributed as a Capital Contribution or loaned to the Joint Venture Company as Member Debt Financing and that are being held for the purpose of making capital or operating expenditures in the current Fiscal [***] or the first twenty-five (25) days of the immediately succeeding Fiscal [***] (or if such day is not a Business Day, then on the first Business Day after such day) and (z) all reserves that are considered reasonably necessary by the Board of Managers to pay other expenditures that are reasonably likely to be payable in the period described in clause (y) above, and in any event including the reserve established under Section 2.2 and amounts remaining in the Accumulated Distributions Accounts; *provided, however*, that the Board of Managers shall cause the Joint Venture Company to use any cash available for distribution as follows:

(1) *first*, to pay in full all amounts outstanding under any outstanding Mandatory Shortfall Notes and related Mandatory Equalization Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1) in order of their respective maturity dates;

(2) *second*, to pay any outstanding Continuing Mandatory Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1) in the order that the respective maturity dates of the related Mandatory Shortfall Notes and Mandatory Equalization Notes occurred;

(3) *third*, to pay in full all amounts outstanding under any other outstanding Member Notes (*provided* any holder thereof has requested such payment by written notice executed by its chief executive officer and delivered to the Joint Venture Company prior to the distribution thereof under this Section 5.1);

(4) *fourth*, to make a distribution to a Member whose aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3)) immediately prior to such distribution are less than the amount equal to the Member's Sharing Interest (as such Sharing Interest is determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)) multiplied

by the aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3)) of the Joint Venture Company immediately prior to such distribution, until such Member's aggregate, cumulative distributions (not including payments made pursuant to Sections 5.1(A)(1), (2) and (3), but including such distribution pursuant to this Section 5.1(A)(4)) are equal to its Distribution Entitlement; and

(5) finally, to make distributions *pro rata* to the Members in accordance with their respective Sharing Interests (as such Sharing Interests are determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)).

(B) Distributions of cash are only to be made to the extent cash is available to the Joint Venture Company without requiring (1) the sale of Joint Venture Company assets (other than in the ordinary course of business) or the pledge of Joint Venture Company assets at a time or on terms that the Board of Managers believes are not in the best interests of the Joint Venture Company or (2) a reduction in reserves that the Board of Managers believes are reasonably necessary for Joint Venture Company purposes for the then-current Fiscal [***] and the first twenty-five (25) days of the immediately succeeding Fiscal [***] (or if such day is not a Business Day, then through the first Business Day after such day).

(C) The Joint Venture Company shall maintain in its books of account for each Member a special purpose account (the "**Accumulated Distributions Accounts**") for purposes of recording amounts that would be distributed to such Member under Section 5.1(A) but for the application of this Section 5.1(C). Notwithstanding anything to the contrary in this Section 5.1, in lieu of actually making the cash distributions contemplated by this Section 5.1, the Joint Venture Company shall (except to the extent a Member requests direct payment to the Member) increase each Member's Accumulated Distributions Account by the amount of such cash that was to have been distributed to such Member. Subsequently, when a Member is required to, or desires to, make a Capital Contribution required or permitted by this Agreement, in lieu of making such Capital Contribution such Member may instruct the Joint Venture Company to reduce such Member's Accumulated Distributions Account in an amount (not to exceed the amount in such Member's Accumulated Distributions Account) up to the amount of such Capital Contribution, which shall be treated for all purposes (including for purposes of the definition of Capital Contribution Balance) as if such Member had made such Capital Contribution at the time designated in such instruction. A Member may, at any time, demand payment of, and the Joint Venture Company shall immediately pay, the full amount of such Member's Accumulated Distributions Account, in which event the amount so paid shall reduce the Member's Accumulated Distributions Account.

5.2 Withholding Tax Payments and Obligations. In the event that withholding taxes are paid or required to be paid in respect of payments made to or by the Joint Venture Company, or allocations to a Member, such withholding shall be treated as follows:

(A) Payments to the Joint Venture Company. If the Joint Venture Company receives proceeds in respect of which a tax has been withheld, the Joint Venture Company shall be treated as having received cash in an amount equal to the amount of such withheld tax, and, for all purposes of this Agreement, each Member shall be treated as having received a

distribution pursuant to Section 5.1 equal to the portion of the withholding tax allocable to such Member, as reasonably determined by the Board of Managers. Such amounts shall not be treated as Joint Venture Company expenses.

(B) Payments by the Joint Venture Company. The Joint Venture Company is authorized to withhold, and the Tax Matters Partner shall take any actions reasonably necessary to withhold, from any payment made to, or any distributive share of, a Member any taxes required by law to be withheld, and in such event, such taxes shall be treated as if an amount equal to such withheld taxes had been distributed to such Member pursuant to Section 5.1 (or, as provided in Section 5.2(C), loaned to such Member).

(C) Certain Withheld Taxes Treated as Demand Loans. Any taxes withheld pursuant to Sections 5.2(A) or 5.2(B) hereof shall be treated as if distributed to the relevant Member pursuant to Section 5.1 to the extent an amount equal to such withheld taxes would then be distributable to such Member, and, to the extent in excess of such distributable amounts, as a demand loan payable by the Member to the Joint Venture Company with interest at a rate equal to [***] (or, if less, the maximum rate allowed by law), compounded and adjusted [***], commencing five (5) days after written demand therefor on behalf of the Joint Venture Company is made by any other Member.

5.3 Distribution Limitations. Notwithstanding anything in this Agreement to the contrary, the Joint Venture Company shall not make any distribution of cash or other property to any Member if the distribution would violate any agreement to which the Joint Venture Company or any of its Subsidiaries is a party or by which it or any of them is bound.

ARTICLE 6.
MANAGEMENT; BOARD OF MANAGERS

6.1 Management Power. Except as specifically provided in Article 7, Article 8, and Sections 11.1, 11.2 and 11.3, the business, property, affairs and operations, including the control over the details of the manufacturing process, of the Joint Venture Company shall be managed by or under the direction of a board of Managers (the "**Board of Managers**"), and, except as provided in Article 7, Article 8 and Sections 11.1, 11.2 and 11.3, no Member shall have any right to participate in or exercise control or management power over the business and affairs of the Joint Venture Company or otherwise to bind, act or purport to act on behalf of the Joint Venture Company in any manner. Subject to the limitations set forth in this Agreement, the Board of Managers shall have all the rights and powers that may be possessed by a manager under the Act, including the power to incur indebtedness for trade payables and equipment leases, the power to enter into agreements and commitments of all kinds, the power to manage, acquire and dispose of Joint Venture Company assets, and all ancillary powers necessary or convenient as to the foregoing. No individual Manager, in his or her capacity as such, may act on behalf of the Board of Managers or bind the Joint Venture Company.

6.2 Number of Managers; Appointment of Managers.

(A) The Board of Managers shall consist of six (6) individuals (each such individual, a "**Manager**"). Subject to Section 6.2(B), one half of the Managers shall be

appointed by Micron and one half of the Managers shall be appointed by Intel. The initial Managers appointed by Micron are listed on Appendix C, and the initial Managers appointed by Intel are listed on Appendix C. Each Member having the right to appoint a Manager or Managers in accordance with this Section shall also have the right, in its sole discretion, to remove such Manager or Managers at any time by delivery of written notice to the other Member(s) and the Joint Venture Company. Any vacancy in the office of a Manager for any reason other than pursuant to Section 6.2(B) (including as a result of such Manager's death, resignation, retirement or removal pursuant to this Section) shall be filled by the Member that appointed the relevant Manager. Unless a Manager resigns, dies, retires or is removed in accordance with this Section, each Manager shall hold office until a successor shall have been duly appointed by the appointing Member.

(B) Effect of Change in Percentage Interest on Managers. While a Member's Percentage Interest is below [***] percent ([***]%) but at least [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the number of Managers the other Member is entitled to appoint to the Board of Managers shall be increased to [***] ([***]). While a Member's Percentage Interest is below [***] percent ([***]%) but at least [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the number of Managers the other Member is entitled to appoint to the Board of Managers shall be increased to [***] ([***]). While a Member's Percentage Interest is below [***] percent ([***]%), the number of Managers such Member is entitled to appoint to the Board of Managers shall be reduced to [***] ([***]), and the other Member shall be entitled to appoint [***] Managers to the Board of Managers; *provided, however*, that the Member with a Percentage Interest of less than [***] percent ([***]%) shall be entitled to designate, from time to time, an individual who shall not be a member of, and shall have no right to vote at any meeting of, the Board of Managers, but who shall have the right to receive notice of, attend, and act as an observer for such Member at, any meeting of the Board of Managers, and who shall receive all materials delivered to the Board of Managers in connection with any such meetings. If either Member's Percentage Interest should be below any of the threshold levels set forth above and if such Member (the "**Appointing Member**") then has more designees serving on the Board of Managers than the number to which it is entitled, such Appointing Member shall immediately identify by written notice to the other Member the designee or designees on the Board of Managers that will cease serving on the Board of Managers and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. If such Appointing Member fails to make such designation within five (5) Business Days after written demand by the other Member, the other Member may designate by written notice to the Appointing Member one or more (as appropriate) of the Appointing Member's designees on the Board of Managers that will cease serving on the Board of Managers and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. The other Member who is entitled to appoint one or more additional Managers to serve on the Board of Managers may immediately appoint such additional Managers by written notice to the other Member designating such Managers. Similarly, if a Member whose Percentage Interest fell below any threshold level set forth in this Section 6.2(B) subsequently increases its Percentage Interest above any such level, the process shall be reversed.

(C) Chairman of the Board of Managers. Until the end of the Fiscal Year ending in 2007, Micron shall have the right to designate one of its designated Managers as chairman of the Board of Managers (the "**Chairman**"), and thereafter, for each subsequent Fiscal Year of the Joint Venture Company, the right to designate the Chairman (from among its designated Managers) shall alternate between Intel and Micron; *provided, however*, that while the Percentage Interest of a Member is below [***] percent ([***]%), the Chairman of the Board will be appointed by the other Member. The Chairman shall preside at all meetings of the Board of Managers and shall have such other duties and responsibilities as may be assigned to him or her by the Board of Managers. The Chairman may delegate to any Manager authority to chair any meeting, either on a temporary or a permanent basis. The Chairman must include any item submitted by a Member or Manager for consideration at a meeting of the Board of Managers, may not cut off debate on any matter being considered by the Board of Managers and shall call for a vote on any matter at the request of any Manager, including any matter described in Section 6.3(B).

(D) Presence of Certain Officers at Meetings of Board of Managers. Each of the Authorized Officers, or the Chief Executive Officer, as applicable, each of whom shall not be a member of the Board of Managers, may attend, but shall have no right to vote at, all meetings of the Board of Managers; *provided, however*, that the Board of Managers may exclude the Authorized Officers, or the Chief Executive Officer, as applicable, from such meetings or such portions of meetings at which the compensation or performance of, or any issue involving, either of the Authorized Officers, or the Chief Executive Officer, as applicable, is discussed as the Board of Managers, in its sole discretion, deems appropriate. If either Authorized Officer is excluded from any meeting or portion of a meeting of the Board of Managers, the other Authorized Officer shall also be excluded from such meeting or portion of such meeting.

6.3 Voting of Managers.

(A) Each Manager shall be entitled to one (1) vote, and Managers shall not be entitled to cast their votes through proxies (except as provided in Section 6.7). Subject to Sections 6.3(B) and 6.3(C), all actions, determinations or resolutions of the Board of Managers shall require the affirmative vote or consent of a majority of the Board of Managers present at any meeting at which a quorum is present (*i.e.*, the affirmative vote of four (4) Managers if the total number of Managers is six (6)), which majority must include at least [***] appointed by each Member at all times that each Member has at least [***] to the Board of Managers; *provided, however*, that any matter that is a Micron Matter shall be deemed approved upon the approval of a majority of the Managers appointed by Micron, and any matter that is an Intel Matter shall be deemed approved upon the approval of a majority of the Managers appointed by Intel. Except as specifically provided in Article 7, Article 8 and Sections 11.1, 11.2 and 11.3, the Board of Managers shall have the right, power and authority to take all actions of the Joint Venture Company, including the following, and in no event shall any of the following actions be taken without the approval of the Board of Managers (which approval may be obtained through the adoption of an Undisputed Approved Business Plan by the Board of Managers in accordance with Sections 11.1 and 11.2, *provided* that the relevant Undisputed Approved Business Plan sets forth such action in reasonable detail), by or with respect to the Joint Venture Company or any Subsidiary of the Joint Venture Company:

(1) entering into any agreement or making any modification or amendment to, or terminating, any agreement between (a) the Joint Venture Company or any Subsidiary of the Joint Venture Company and (b) any Member or an Affiliate of a Member;

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

(3) adopting, or making any material modification, amendment or termination of, material accounting and tax policies, procedures and principles applicable to the Joint Venture Company or any of its Subsidiaries other than those made in accordance with Section 10.9 (*provided*, *however*, that the right, power and authority of the Board of Managers with respect to tax policies, procedures and principles granted under this Section 6.3 shall be subject to the provisions of Section 10.7 hereof);

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

(5) setting any distribution to the Members not required under Article 5;

(6) subject to Section 6.3(B)(1)(b), commencing or settling litigation, except routine employment litigation matters;

(7) making any material purchase, sale or lease (as lessor or lessee) of any real property (except for any such purchase or lease to effectuate an Intel Matter that is approved by a majority of the Intel Managers then in office or a Micron Matter that is approved by a majority of the Micron Managers then in office);

(8) acquiring securities or any equity ownership interest in any Person, other than a Wholly-Owned Subsidiary of the Joint Venture Company established to hold a Fab or assets of the Joint Venture Company or any of its Subsidiaries;

(9) making any public announcement by the Joint Venture Company or any Subsidiary of the Joint Venture Company of any material non-public information not previously approved for public announcement by the Board of Managers;

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

(11) approving any Proposed Business Plan, or amending or modifying any Approved Business Plan (or any modification thereof), subject to Sections 11.1(C), 11.2(D) and 11.2(E);

(12) making any filing with, public comments to, or negotiation or discussion with, any Governmental Entity (excluding regular operating filings and other routine administrative matters and other than any such filing, public comments, or negotiation or discussion relating to an Intel Matter that is approved by a majority of the

Intel Managers then in office or relating to a Micron Matter that is approved by a majority of the Micron Managers then in office); and

(13) establishing, overseeing and modifying the investment policies of the Joint Venture Company with respect to funds held by the Joint Venture Company, including funds reserved pursuant to Section 2.2 pending the use of such funds in accordance with any applicable Approved Business Plan.

(B) (1) Notwithstanding the foregoing, any action of the Board of Managers with respect to any of the following matters relating to a Member (the "**Interested Member**") shall be deemed approved by the Board of Managers if approved either by the affirmative vote at a meeting of the Board of Managers of a majority of the Managers appointed by the other Member (the "**Independent Member**") with respect to such action or by written consent of a majority of the Managers appointed by such Independent Member:

(a) any determination to grant indemnification to the Interested Member for any matter not contemplated by Section 14.2 hereof; or

(b) the pursuit of any remedy by the Joint Venture Company or a Subsidiary of the Joint Venture Company against the Interested Member or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture) in accordance with Section 7.5; or

(c) any other matter (other than a matter provided for in Section 6.3(B)(2)) in which the interests of the Joint Venture Company or a Subsidiary of the Joint Venture Company and the Interested Member, or an officer, director, controlling stockholder or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture), are adverse.

(2) The entry into, modification of, amendment to, or termination by the Joint Venture Company of any agreement or other transaction between the Joint Venture Company or any Subsidiary of the Joint Venture Company, on the one hand, and the Interested Member or an officer, director, controlling stockholder or Affiliate of the Interested Member (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture), on the other hand, (an "**Interested Member Transaction**") shall be permitted only if:

(a) The material facts as to the relationship or interest of the Interested Member (and its officers, directors, controlling stockholders and Affiliates (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture)) as to the Interested Member Transaction are disclosed or are known to the Board of Managers and the Independent Member, and the Board of Managers in good faith authorizes the Interested Member Transaction by the affirmative votes of a majority of the

Managers appointed by the Independent Member, even though the Managers appointed by the Independent Member may be less than a quorum; or

(b) The material facts as to the relationship or interest of the Interested Member (and its officers, directors, controlling stockholders and Affiliates) as to the Interested Member Transaction are disclosed or are known to the Independent Member, and the Interested Member Transaction is specifically approved in writing by the Independent Member; or

(c) The Interested Member Transaction is authorized, approved or ratified by the Board of Managers and is fair as to the Joint Venture Company or the applicable Subsidiary of the Joint Venture Company and the Independent Member as of the time it is so authorized, approved or ratified by the Board of Managers.

(3) Managers appointed by the Interested Member may be counted in determining the presence of a quorum at a meeting of the Board of Managers which authorizes the Interested Member Transaction.

(C) Notwithstanding anything in this Agreement to the contrary, if a Member has only [***] to the Board of Managers as a result of its Percentage Interest falling below the requisite threshold set forth in Section 6.2(B), the following actions will require the approval of a majority of the members of the Board of Managers, including the Manager appointed by such Member:

(1) any material modification, amendment or termination of material accounting and tax policies, procedures and principles applicable to the Joint Venture Company or any of its Subsidiaries, other than those made in accordance with Section 10.9 (*provided*, *however*, that the right, power and authority of the Board of Managers with respect to tax policies, procedures and principles granted under this Section 6.3 shall be subject to the provisions of Section 10.7 hereof); and

(2) except for any litigation matter subject to Section 6.3(B)(1)(b), any settlement of a litigation matter or a group of related litigation matters, other than routine litigation matters not involving current or former members of management, where the amount of damages payable by the Joint Venture Company or any of its Subsidiaries exceeds $[***] or that results in disparate treatment of the Members.

6.4 Meetings of the Board of Managers; Quorum. The Board of Managers shall hold meetings at least once per Fiscal Quarter. Subject to a Manager's right to appoint an alternate Manager in accordance with Section 6.7, the presence of at least a majority of the Managers (four (4) while the number of Managers is six (6)), in person or by telephone conference or by other means of communications acceptable to the Board of Managers, shall be necessary and sufficient to constitute a quorum for the purpose of taking action by the Board of Managers at any meeting of the Board of Managers; *provided*, that such quorum shall consist of at least a majority of the Managers appointed by each Member that appoints an odd number of Managers greater than one, and at least half of the Managers appointed by each Member that appoints an

even number of Managers. No action taken by the Board of Managers at any meeting shall be valid unless the requisite quorum is present.

6.5 Notice; Waiver. The regular quarterly meetings of the Board of Managers described in Section 6.4 shall be held upon not less than ten (10) days' written notice. Additional meetings of the Board of Managers shall be held (A) at such other times as may be determined by the Board of Managers, (B) at the request of at least two (2) Managers or either Authorized Officer, or the Chief Executive Officer, as applicable, upon not less than five (5) Business Days' written notice or (C) in accordance with Section 17.1, following a failure by the Board of Managers to adopt or reject a proposal for action presented to it. For purposes of this Section, notice may be provided via facsimile, email or any other manner provided in Section 18.1, or telephonic notice to each Manager (which notice shall be provided to the other Managers by the requesting Managers). The presence of any Manager at a meeting (including by means of telephone conference or other means of communications acceptable to the Board of Managers) shall constitute a waiver of notice of the meeting with respect to such Manager, unless such Manager declares at the meeting that such Manager objects to the notice as having been improperly given. The Board of Managers shall cause written minutes to be prepared of all actions taken by the Board of Managers and shall cause a copy thereof to be delivered to each Manager within fifteen (15) days of each meeting.

6.6 Action Without a Meeting; Meetings by Telecommunications.

(A) On any matter that is to be voted on, consented to or approved by the Board of Managers, the Board of Managers may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the Managers having not less than the minimum votes that would be necessary to authorize or take such action, in accordance with the terms of this Agreement, at a meeting at which all the Managers were present and voted.

(B) Unless the Act otherwise provides, members of the Board of Managers shall have the right to participate in all meetings of the Board of Managers by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

6.7 Alternate Managers. Each Manager shall have the right to designate an individual to attend and vote at meetings of the Board of Managers as the proxy of such regularly appointed Manager.

6.8 Compensation of Managers. The Managers, in their capacity as such, shall not receive compensation from the Joint Venture Company. Each Member shall bear the cost and expenses incurred by its appointed Managers in connection with the Joint Venture Company's business while such Managers are serving in such capacity.

ARTICLE 7.
MEMBERS

7.1 Rights of Members; Meetings.

(A) The Members shall be the members of the Joint Venture Company under the Act, and shall be entitled to the following: (1) receive financial reports and tax reporting information referenced in Sections 10.4 and 10.6; (2) receive (y) the then-current Approved Business Plans, as updated from time to time in accordance with Section 11.1 or Section 11.2 and any Proposed Business Plan and (z) the then-current Operating Plan; (3) receive such additional information of the Joint Venture Company or any of its Subsidiaries as may reasonably be requested by a Member; (4) copies of any third party audit findings from any audit of the Joint Venture Company or any Subsidiary of the Joint Venture Company, any subcontractor for the Joint Venture Company or any Subsidiary of the Joint Venture Company or any Person that provides services to the Joint Venture Company or any Subsidiary of the Joint Venture Company (including a Member in such capacity but only to the extent contemplated by the applicable service agreement with such Member); and (5) such additional rights as are elsewhere provided in this Agreement or by mandatory requirements of Applicable Law, including mandatory requirements of the Act.

(B) At any time, and from time to time, the Board of Managers may, but shall not be required to, call meetings of the Members.

(1) Special meetings of the Members for any proper purpose or purposes may be called at any time by either Member. Each meeting of the Members shall be conducted by the Authorized Officers, or the Chief Executive Officer, as applicable, or any mutually agreeable designee of the Authorized Officers or designee of the Chief Executive Officer, as applicable, and shall be held at the principal offices of the Joint Venture Company or at such other place as may be agreed upon from time to time by the Members. The Authorized Officers or their designee, or the Chief Executive Officer or his or her designee, as applicable, shall include any item submitted by a Member for consideration at a meeting of the Members, may not cut off debate on any matter being considered by the Members and shall call for a vote on any matter at the request of any Member. Meetings may be held by telephone if both Members so consent.

(2) Except as otherwise required by Applicable Law, written notice (which may be provided via facsimile or electronic mail with receipt confirmation) of each meeting of the Members of the Joint Venture Company shall be given not less than five (5) nor more than thirty-five (35) days before the date of such meeting.

(3) The presence, either in person or by proxy, of Members whose combined Percentage Interests equal one hundred percent (100%) is required to constitute a quorum at any meeting of the Members.

(4) Each Member may authorize any Person (*provided* such Person is an officer of the Member) to act for it or on its behalf on all matters in which the Member is entitled to participate. Each proxy must be signed by a duly authorized officer of the Member. All other provisions governing, or otherwise relating to, the holding of meetings of the Members shall be established from time to time as mutually agreed by the Members.

(5) The Members shall be entitled to vote on any matter submitted to a vote of the Members in proportion to their Percentage Interests. Members may vote either in person or by proxy at any meeting. Each Member shall be entitled to cast one (1) vote for each full percentage of the Percentage Interest held by such Member. Fractional votes shall be permitted.

(6) Any action permitted or required by the Act, the Certificate, or this Agreement to be taken at a meeting of Members may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by the Member or Members whose vote or approval is required for the taking of such action under this Agreement. Such consent shall have the same force and effect as if such action was approved by vote at a meeting at which all the Members were present and voted and may be stated as such in any document or instrument filed with the Secretary of State of Delaware, and the execution of such consent shall constitute attendance or presence in person at a meeting of Members.

7.2 Limitations on the Rights of Members.

(A) Subject to any mandatory requirements of Applicable Law, including mandatory requirements under the Act, except as provided in this Agreement or as otherwise agreed in writing by the Members, no Member (in its capacity as a Member) has the right to take any part whatsoever in the management and control of the business of the Joint Venture Company, sign for or bind the Joint Venture Company or any of its Subsidiaries, compel a sale or appraisal of the Joint Venture Company's or any of its Subsidiaries' assets, or sell or assign its Interest in the Joint Venture Company or any of its Subsidiaries.

(B) No Member may, without the prior written consent of the other Member: (1) confess any judgment against the Joint Venture Company or any of its Subsidiaries; (2) act for, enter into any agreement on behalf of or otherwise purport to bind the other Member, the Joint Venture Company or any of its Subsidiaries; (3) do any acts in contravention of this Agreement or any of the Affiliate Agreements; (4) except as contemplated by the Affiliate Agreements, dispose of the goodwill or the business of the Joint Venture Company or any of its Subsidiaries; (5) Transfer its Interest in the Joint Venture Company (except as provided in Sections 12.2, 12.4(A), 12.4(B) or 12.5); or (6) assign the property of the Joint Venture Company or any of its Subsidiaries in trust for creditors or on the assignee's promise to pay any indebtedness of the Joint Venture Company or any of its Subsidiaries.

7.3 Limited Liability of the Members. Except to the extent expressly set forth in Article 2 of this Agreement or otherwise in a written instrument executed by the Member against whom any liability is asserted in favor of the Person asserting such liability, the Members (solely in their capacity as Members) have no obligation to contribute to the Joint Venture Company or any of its Subsidiaries and shall not be liable for any debt, obligation or liability of the Joint Venture Company or any of its Subsidiaries. Any liability to return distributions made by the Joint Venture Company is limited to mandatory requirements of the Act or of any other Applicable Law.

7.4 Voting Rights of Members.

(A) Notwithstanding anything in this Agreement to the contrary, for so long as a Member's Percentage Interest is greater than [***] ([***]%), the following actions shall require the unanimous approval of the Members:

(1) any amendment, restatement or revocation of the Certificate, except (a) as provided in Section 1.5(A) to effectuate a change in the principal place of business of the Joint Venture Company, (b) to change the name of the Joint Venture Company, (c) as required by Applicable Law, or (d) to accomplish any action that would be allowed under the terms and conditions of this Agreement where the only prohibition on the performance of such action is the terms of the Certificate;

(2) any material change in the business purpose of the Joint Venture Company or any of its Subsidiaries, other than a change in accordance with the proviso to Section 1.4;

(3) any Transfer of any Interest to any Person, except as expressly permitted by Sections 12.2, 12.4(A), 12.4(B) or 12.5;

(4) any agreement with respect to all present or former Members to extend the period for assessing any tax which is attributable to any Joint Venture Company item or item of any of the Joint Venture Company's Subsidiaries;

(5) any approval of the inclusion within the business purpose of the Joint Venture Company or any of its Subsidiaries the manufacture of memory products other than NAND Flash Memory Products, subject to the proviso to Section 1.4;

(6) any approval or setting of any distribution to any Member (other than distributions of cash in accordance with Article 5); *provided*, *however*, that a Member's consent for the purposes of this Section 7.4(A)(6) shall not be unreasonably withheld; and

(7) the sale, license, assignment or other transfer of any intellectual property owned or in the possession of the Joint Venture Company or any Subsidiary of the Joint Venture Company (including any technology or know-how, whether or not patented, any trademark, trade name or service mark, any copyright or any software or other method or process) to any Person other than a Wholly-Owned Subsidiary of the Joint Venture Company or a U.S. Facilities Company or an Applicable Joint Venture or a Wholly-Owned Subsidiary of an Applicable Joint Venture, except as provided in the Joint Venture Documents or as otherwise agreed in writing by the Members.

(B) Notwithstanding anything in this Agreement to the contrary, and in addition to the provisions of Section 7.4(A), for so long as a Member's Percentage Interest is at least [***] percent ([***]%), the following actions shall require the unanimous approval of the Members:

(1) the incurrence of any indebtedness for borrowed money, other than (i) as provided in Article 2 or Article 3 and (ii) any third-party equipment financing;

(2) any sale, lease, pledge (other than pledges of equipment under a permitted third-party equipment financing), assignment, transfer (other than transfers to a Wholly-Owned Subsidiary of the Joint Venture Company) or other disposition of any asset of the Joint Venture Company or any of its Subsidiaries or group of assets in each case other than in the ordinary course, unless approved in an Undisputed Approved Business Plan or unless made in connection with a dissolution of the Joint Venture Company as contemplated by Article 13; *provided*, *however*, that unanimous approval will not be required if the aggregate amount of such sales, leases, pledges (other than pledges of equipment under a permitted third-party equipment financing), assignments, transfers (other than transfers to a Wholly-Owned Subsidiary of the Joint Venture Company) and other dispositions not in the ordinary course do not exceed the amount provided for in an Undisputed Approved Business Plan by more than $[***] in any Fiscal Year;

(3) any purchase, lease or other acquisition, in any single transaction or in a series of related transactions, of personal property or services or capital equipment inconsistent with an Approved Business Plan (after taking into account any general overrun provisions contained in such Approved Business Plan);

(4) any capital expenditures or series of related capital expenditures, that exceed the amount provided therefor in the most recently Approved Business Plan (after taking into account any general spending overrun provisions contained in such Approved Business Plan) or any commitment by the Joint Venture Company or any Subsidiary of the Joint Venture Company to make expenditures in any development project in an amount greater than the amount set forth in the most recently Approved Business Plan (after taking into account any general spending overrun provisions contained in such Approved Business Plan);

(5) any merger, consolidation or other business combination to which the Joint Venture Company or any Subsidiary of the Joint Venture Company is a party, or any other transaction to which the Joint Venture Company or any Subsidiary of the Joint Venture Company is a party (other than where the Joint Venture Company is merged or combined with or consolidated into a Wholly-Owned Subsidiary of the Joint Venture Company), resulting in a change of control of the Joint Venture Company or any Subsidiary of the Joint Venture Company, other than a change of control that may occur pursuant to Article 2 or Article 3;

(6) (a) the voluntary commencement or the failure to contest in a timely and appropriate manner any involuntary proceeding or the filing of any petition seeking relief under bankruptcy, insolvency, receivership or similar laws, (b) the application for or consent to the appointment of a receiver, trustee, custodian, conservator or similar official for the Joint Venture Company or any Subsidiary of the Joint Venture Company, or for a substantial part of their property or assets, (c) the filing of an answer admitting the material allegations of a petition filed against the Joint Venture Company or any Subsidiary of the Joint Venture Company in any proceeding described above, (d) the consent to any order for relief issued with respect to any proceeding described in this subsection (6), (e) the making of a general assignment for the benefit of creditors, or

(f) the admission in writing of the Joint Venture Company's inability, or the failure of the Joint Venture Company or of any Subsidiary of the Joint Venture Company generally, to pay its debts as they become due or the taking of any action for the purpose of effecting any of the foregoing;

(7) the acquisition of any business or entry into any joint venture or partnership;

(8) the creation of any direct or indirect Subsidiary of the Joint Venture Company other than a U.S. Facilities Company or any other Wholly-Owned Subsidiary of the Joint Venture Company; and

(9) negotiating external sources of additional wafer manufacturing capacity for Joint Venture Products.

In addition, such Member shall have the right to review and comment on any public announcement by the Joint Venture Company or any Subsidiary of the Joint Venture Company.

(C) Notwithstanding anything in this Agreement to the contrary, and in addition to the provisions of Sections 7.4(A) and 7.4(B), for so long as a Member's Percentage Interest is at least [***] percent ([***]%), the following actions shall require the unanimous approval of the Members:

(1) the purchase, license or other acquisition of rights to third party intellectual property other than routine software licenses in connection with the Joint Venture Company's or any of its Subsidiaries' ongoing operations.

7.5 Defaulting Member. Notwithstanding anything in this Agreement to the contrary, in no event shall the pursuit of any remedy by the Joint Venture Company or any of its Subsidiaries against a Defaulting Member pursuant to Section 17.7 require the consent of such Defaulting Member. The Non-Defaulting Member shall have the right to control the Joint Venture Company's pursuit of any such claim against the Defaulting Member.

7.6 Cooperation.

(A) Intel may take action on behalf of the Joint Venture Company with respect to any Intel Matter and shall cooperate with and keep Micron regularly informed with respect to any Intel Matter.

(B) Micron may take action on behalf of the Joint Venture Company with respect to any Micron Matter and shall cooperate with and keep Intel regularly informed with respect to any Micron Matter.

ARTICLE 8.
OFFICERS AND COMMITTEES

8.1 Intel Executive Officer.

(A) Until the [***] anniversary of the Effective Date (the "**Management Conversion Date**"), the Joint Venture Company shall have an executive officer appointed by Intel (the "**Intel Executive Officer**") who, together with the Micron Executive Officer, shall have responsibility for the day-to-day management and control of the business and affairs of the Joint Venture Company and its Subsidiaries and overseeing the implementation of the strategic direction of the Joint Venture Company and its Subsidiaries. The Intel Executive Officer shall perform such duties and have such powers specifically delegated to the Intel Executive Officer by the Board of Managers. The Intel Executive Officer shall be an employee of Intel seconded to the Joint Venture Company by Intel, subject to the consent of Micron, which consent shall not be unreasonably withheld or delayed. Intel shall have the right to remove the Intel Executive Officer at any time, with or without cause, *provided* that it provides at least ten (10) days written notice of such removal to Micron and the Joint Venture Company. Intel shall have the right to fill any vacancy in the position of Intel Executive Officer for any reason (including as a result of the Intel Executive Officer's death, resignation, retirement or removal pursuant to this Section), subject to the consent of Micron, which consent shall not be unreasonably withheld or delayed. The Intel Executive Officer shall report directly to the Board of Managers.

(B) The Board of Managers shall determine, from time to time, the incentive compensation for which the Intel Executive Officer may be eligible based upon the Joint Venture Company's operational success.

8.2 Micron Executive Officer.

(A) Until the Management Conversion Date, the Joint Venture Company shall have an executive officer appointed by Micron (the "**Micron Executive Officer**") who, together with the Intel Executive Officer, shall have responsibility for the general management and control of the day-to-day business and affairs of the Joint Venture Company and its Subsidiaries and overseeing the implementation of the strategic direction of the Joint Venture Company and its Subsidiaries. The Micron Executive Officer shall perform such duties and have such powers specifically delegated to the Micron Executive Officer by the Board of Managers. The Micron Executive Officer shall be an employee of Micron seconded to the Joint Venture Company by Micron, subject to the consent of Intel, which consent shall not be unreasonably withheld or delayed. Micron shall have the right to remove the Micron Executive Officer at any time, with or without cause, *provided* that it provides at least ten (10) days written notice of removal to Intel and the Joint Venture Company. Micron shall have the right to fill any vacancy in the position of Micron Executive Officer for any reason (including as a result of the Micron Executive Officer's death, resignation, retirement or removal pursuant to this Section), subject to the consent of Intel, which consent shall not be unreasonably withheld or delayed. The Micron Executive Officer shall report directly to the Board of Managers.

(B) The Board of Managers shall determine, from to time, the incentive compensation for which the Micron Executive Officer may be eligible based upon the Joint Venture Company's operational success.

8.3 Lead Controller/Chief Financial Officer.

(A) The Joint Venture Company shall have a financial manager (the "**Lead Controller**") who shall serve as the principal financial officer of the Joint Venture Company and shall have responsibility for and authority over the day-to-day financial matters of the Joint Venture Company and its Subsidiaries. The Lead Controller shall perform such duties and have such powers specifically delegated to the Lead Controller by the Board of Managers. The Lead Controller shall be an employee of Micron seconded to the Joint Venture by Micron, or another individual selected by Micron, subject to the consent of Intel, which consent shall not be unreasonably withheld or delayed. Micron shall have the right to remove the Lead Controller at any time, with or without cause, *provided* that it provides at least ten (10) days written notice of removal to Intel and the Joint Venture Company. Micron shall have the right to fill any vacancy in the position of Lead Controller for any reason (including as a result of the Lead Controller's death, resignation, retirement or removal pursuant to this Section), subject to the consent of Intel, which consent shall not be unreasonably withheld or delayed. The Lead Controller shall report directly to the Board of Managers.

(B) The Board of Managers shall determine, from time to time, the incentive compensation for which the Lead Controller may be eligible based upon the Joint Venture Company's operational success.

(C) For so long as there is a Lead Controller who is seconded to the Joint Venture Company by a Member, the other Member shall be entitled to second to the Joint Venture Company a senior finance officer to assist the Lead Controller in the execution of his or her duties set forth in this Section 8.3. The Board of Managers shall determine, from time to time, the incentive compensation for which such officer may be eligible based upon the Joint Venture Company's operational success.

(D) Upon the Management Conversion Date, the position of the Lead Controller shall terminate and the Board of Managers shall appoint a Chief Financial Officer (the "**Chief Financial Officer**") who shall be an employee of the Joint Venture Company and shall report directly to the Chief Executive Officer. The Chief Financial Officer shall have the responsibilities specifically delegated to the Lead Controller by the Board of Managers, shall perform all other duties and shall have all powers that are delegated to him or her by the Board of Managers or the Chief Executive Officer, and shall be selected by the Board of Managers. For purposes of this Agreement, the Lead Controller and the Chief Financial Officer are referred to interchangeably as the "**Financial Officer**."

8.4 Chief Executive Officer. Upon the Management Conversion Date, the Board of Managers shall appoint a Chief Executive Officer (the "**Chief Executive Officer**"), who shall have responsibility for the day-to-day general management and control of the business and affairs of the Joint Venture Company and its Subsidiaries and overseeing the implementation of the strategic direction of the Joint Venture Company and its Subsidiaries. The Chief Executive Officer shall perform or oversee those duties that were specifically delegated to the Intel Executive Officer and Micron Executive Officer by the Board of Managers prior to the Management Conversion Date and shall perform all other duties and have all powers that are that are commonly incident to the office of chief executive officer or that are specifically delegated to him or her by the Board of Managers. The Chief Executive Officer shall be an employee of the Joint Venture Company, selected by the Board of Managers, subject to the consent of any

Member whose Percentage Interest is at least [***] percent ([***]%), which consent shall not be unreasonably withheld or delayed. The Board of Managers shall have the right to remove any Chief Executive Officer at any time, with or without cause, subject to the terms of any employment contract between the Joint Venture Company and the Chief Executive Officer.

8.5 General Provisions Regarding Officers.

(A) There shall be one or more site managers of the Joint Venture Company who shall serve as officers of the Joint Venture Company and shall have such authority and perform or oversee those duties that are delegated to such officers by the Board of Managers or the Authorized Officers or Chief Executive Officer, as applicable. The Board of Managers may, from time to time, designate other officers of the Joint Venture Company, delegate to such officers such authority and duties as the Board of Managers may deem advisable and assign titles to any such officers. Except as otherwise provided in this Agreement, prior to the Management Conversion Date, officers may either be employees of the Joint Venture Company or Seconded Employees. Unless the Board of Managers otherwise determines or unless otherwise provided by this Agreement, if the title assigned to an officer of the Joint Venture Company is one commonly used for officers for businesses of comparable size in the same industry, then, subject to the terms of this Agreement, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are customarily associated with such office for businesses of comparable size in the same industry. Except as otherwise provided in this Agreement, any number of titles may be held by the same individual.

(B) Subject to all rights, if any, under any contract of employment, any officer to whom a delegation is made pursuant to Section 8.5(A) shall serve in the capacity delegated unless and until such delegation is revoked by the Board of Managers for any reason or no reason whatsoever, with or without cause, or such officer resigns.

8.6 Intentionally Omitted.

8.7 Waiver of Fiduciary Duties.

(A) In connection with the determination of any and all matters presented for action to the Members or the Board of Managers, as applicable, the Members acknowledge and agree that each Member will be acting on its own behalf and each Representative serving on the Board of Managers will be acting on behalf of the Member that appointed such Representative.

(B) Each Member may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting, in its own interest (subject to the express terms of any contract entered into by such Member) without regard to the interest of the other Member or the Joint Venture Company or any of its Subsidiaries, and, subject to Section 8.7(D), each Representative may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting at the direction or control of, or in a manner that such Representative believes is in the best interest of, the Member that appointed the Representative without regard to the interest of the other Member or the Joint Venture Company or any of its Subsidiaries. Further, each Member may, to the fullest extent permitted by Applicable Law (subject to the express terms of any contract entered into by such Member), make decisions and exercise direction and control over the

decisions of the Representatives appointed by such Member without duty to or regard for the interests of the other Member or the Joint Venture Company or any of its Subsidiaries.

(C) The Joint Venture Company, on its own behalf and on behalf of each of its Subsidiaries, and each Member waives, to the fullest extent permitted by Applicable Law, (1) any claim or cause of action against any Member or Manager based on the determination of any and all matters presented for action to the Members or the Board of Managers, as applicable, (2) breach of fiduciary duty, duty of care, duty of loyalty or any other duty or (3) breach of the Act; *provided*, *however*, the foregoing will not limit any Member's obligation under or liability for breach of the express terms of this Agreement or any other agreement that they have entered into with the Joint Venture Company or any of its Subsidiaries or the other Member; and *provided further*, *however*, that no Member shall negotiate or enter into or request or otherwise cause the Joint Venture Company to negotiate or enter into any agreement or transaction that would result in such Member or any of its Subsidiaries receiving any financial consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person based upon the Joint Venture Company's taking an action (including hiring any employees, undertaking any construction or purchasing any equipment) or entering into such agreement or transaction other than as a Member of the Joint Venture Company pursuant to this Agreement, and any Member who receives any such consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person in respect of the Joint Venture Company's activities, shall promptly convey such consideration or other tangible property incentive, payment or other form of financial consideration or other tangible property consideration from any Governmental Entity or Person to the Joint Venture Company without any adjustment in the Capital Contribution Balance of such Member.

(D) The term "**Representative**" shall mean, with respect to a Member and the Managers and the employees, agents and other representatives of such Member including the Seconded Employees of such Member, but not including, only for purposes of Section 8.7(C)(2), the Chief Executive Officer, the Intel Executive Officer, the Micron Executive Officer, the Lead Controller, the Chief Financial Officer or any other officer or site manager of the Joint Venture Company (and each such officer shall be bound by such fiduciary and other duties (including the duty of care and the duty of loyalty) as would apply to an officer having comparable authority and duties under the DGCL).

ARTICLE 9.
EMPLOYEE MATTERS

9.1 Joint Venture Company Employees; Seconded Employees. The Joint Venture Company shall employ its own personnel and shall be their exclusive employer. In addition, certain other persons who are employed by Micron or its Relatives or Intel or its Relatives may be seconded by Micron or Intel, respectively, to work for the Joint Venture Company for a given period of time ("**Seconded Employees**") pursuant to the terms and conditions of the Micron Personnel Secondment Agreement or the Intel Personnel Secondment Agreement, respectively. Seconded Employees may be utilized to provide services to the Joint Venture Company until (1) the time specified in Article 8 for certain Seconded Employees, if any, acting as officers of the

Joint Venture Company, (2) with respect to Seconded Employees employed by Micron or its Relatives, until the time determined under the terms of the Micron Personnel Secondment Agreement, or (3) with respect to Seconded Employees employed by Intel or its Relatives, until the time determined under the terms of the Intel Personnel Secondment Agreement. Notwithstanding the foregoing, no Seconded Employee will become employed by the Joint Venture Company or any of its Subsidiaries unless agreed among the Joint Venture Company and the Members.

9.2 Performance and Removal of Seconded Employees. The Intel Executive Officer and Micron Executive Officer shall consult with one another with respect to any Seconded Employee, regardless of origin, who is not adequately performing or adequately adapting to the team environment of the Joint Venture Company, and discuss appropriate action. If a decision is made by the Intel Executive Officer, in the case of a Seconded Employee seconded by Intel or its Relatives, or the Micron Executive Officer, in the case of a Seconded Employee seconded by Micron or its Relatives, that such employee should be reassigned to duties other than with the Joint Venture Company, the Intel Executive Officer or the Micron Executive Officer, as the case may be, will make reasonably prompt efforts to request the seconding Member or Relative, as applicable, to reassign such employee to duties other than with the Joint Venture Company as such seconding Member or Relative, as applicable, shall determine in its sole discretion. In no event will the Intel Executive Officer or Micron Executive Officer have (i) the authority to reassign any Seconded Employee of the other Member or its Relatives (either within the Joint Venture Company or to any other assignment), or (ii) the ability to terminate the employee relationship between a Seconded Employee of the other Member or its Relatives and his or her employer. Intel and Micron shall each determine in its own sole discretion with regard to its Seconded Employees and those of its Relatives whether or not, and if so under what conditions, the Intel Executive Officer (in the case of Intel) or the Micron Executive Officer (in the case of Micron) may either reassign the duties of (either within the Joint Venture Company or to any other assignment) or terminate the employment relationship with its Seconded Employees or those of its Relatives.

For avoidance of doubt, this Section 9.2 shall not apply to the Intel Executive Officer, the Micron Executive Officer, or the Lead Controller whose performance shall be subject to review by the Board of Managers. Furthermore, the Board of Managers shall possess the authority to require that a Seconded Employee be reassigned by the seconding Member or its Relatives, as the case may be, to duties other than with the Joint Venture Company. Subject to the terms of the Intel Personnel Secondment Agreement and the Micron Personnel Secondment Agreement, as the case may be, the Chief Executive Officer shall possess the authority to require that a Seconded Employee be reassigned by the seconding Member or its Relatives, as the case may be, to duties other than with the Joint Venture Company.

9.3 Forms. (A) The Joint Venture Company and each of its Subsidiaries shall have policies applicable to, and ensure that all of its officers, employees and third-party independent contractors, third-party consultants, and other third-party service providers enter into appropriate agreements with respect to, (1) protection of confidential information of the Joint Venture Company and its Subsidiaries, (2) compliance with Applicable Laws, and (3) other matters related to the delivery of services to, or employment of such Person by, the Joint Venture Company or its Subsidiaries. The Joint Venture Company and each of its Subsidiaries shall have

policies applicable to, and ensure that all of its officers and employees enter into appropriate agreements with respect to intellectual property assignment, including invention disclosures, pursuant to which ownership to any intellectual property created in the course of employment with the Joint Venture Company or any of its Subsidiaries shall be assigned to the Joint Venture Company. The Joint Venture Company and each of its Subsidiaries shall have policies applicable to, and ensure that all of its third-party independent contractors, third-party consultants, and other third-party service providers that create intellectual property in the course of performing services for the Joint Venture Company or any of its Subsidiaries, enter into appropriate agreements with the Joint Venture Company with respect to the Joint Venture Company's ownership of, or the Joint Venture Company's and its Subsidiaries' right to use, such intellectual property. The forms referred to in this Section 9.3 are collectively referred to as the "**Service Provider Related Forms**."

(B) Notwithstanding any preceding provisions in this Section 9.3 or elsewhere, no Seconded Employee shall be required to sign any Service Provider Related Forms, except with respect to acknowledgement of and agreement regarding policies of the Joint Venture Company addressing conduct while performing services at the premises of the Joint Venture Company, such as workplace safety, but excluding matters relating to protection of confidential information of the Joint Venture Company and its Subsidiaries and intellectual property assignment, which issues have been addressed in other documents. The Joint Venture Company shall be responsible for providing those appropriate Service Provider Related Forms, if any, prepared by the Joint Venture Company for Seconded Employees to the appropriate Seconded Employees, following up to make sure they are signed and for properly storing such forms; however, Intel and Micron shall each require that their Seconded Employees sign the applicable Service Provider Related Forms when requested to do so by the Joint Venture Company.

9.4 Compensation and Benefits.

(A) The Joint Venture Company and its Subsidiaries shall have compensation and benefits programs for the employees of the Joint Venture Company and its Subsidiaries (excluding, for this purpose, Seconded Employees) at its locations consistent with local practices in each respective geographic area, as determined by the Intel Executive Officer and Micron Executive Officer, or the Chief Executive Officer, as applicable, and, to the extent required by law or this Agreement, approved by the Board of Managers, which may initially be modeled after Micron's local compensation and benefits programs if deemed to be appropriate and competitive by the Intel Executive Officer and the Micron Executive Officer (or the Chief Executive Officer, when applicable) and, if applicable, the Board of Managers. Incentive compensation programs for Joint Venture Company employees and the employees of any Subsidiary of the Joint Venture Company will be tied to the Joint Venture Company's operational success, as determined by the Intel Executive Officer and the Micron Executive Officer (or the Chief Executive Officer, when applicable) and approved by the Board of Managers.

(B) It is the intention of Micron to offer employees of Micron and its Relatives who transfer to the Joint Venture Company the option to transfer up to [***] hours of their current accrued Time Off Plan ("**TOP**") hours balance to the comparable plan of the Joint

Venture Company to be administered in accordance with the terms of such plan. If Micron and its Relatives allow such a transfer and if an employee so elects, the Joint Venture Company shall credit the employee's Joint Venture Company TOP (or similar time bank) account with the transferred hours and Micron shall pay the Joint Venture Company an amount equal to the person's base hourly rate (or a calculated base hourly rate in case of salaried employees) multiplied by the TOP hours transferred.

(C) It is the intention of Intel to offer employees of Intel and its Relatives who transfer to the Joint Venture Company the option to transfer up to [***] hours of their current accrued vacation and personal absence hours balance to the comparable plan of the Joint Venture Company to be administered in accordance with the terms of such plan. If Intel and its Relatives allow such a transfer and if an employee so elects, the Joint Venture Company shall credit the employee's Joint Venture Company TOP (or similar time bank) account with the transferred hours and Intel shall pay the Joint Venture Company an amount equal to the person's base hourly rate (or a calculated base hourly rate in case of salaried employees) multiplied by the vacation and personal absence hours transferred.

ARTICLE 10.
RECORDS, ACCOUNTS AND REPORTS

10.1 Books and Records. The Authorized Officers, or the Chief Executive Officer, as applicable, shall keep or cause to be kept adequate books and records with respect to the Joint Venture Company's and each of its Subsidiaries' business, including the following:

(A) a current list of the full name and last known business address of each Member and its appointed Managers and all officers and Representatives;

(B) copies of records that would enable a Member to determine the relative Committed Capital, Percentage Interests, Sharing Interests, Economic Interests, Member Debt Financing, Capital Contribution Balances and Accumulated Distributions Accounts of the Members;

(C) a copy of the Certificate together with any amendments;

(D) copies of the Joint Venture Company's and each of its Subsidiaries' federal and state income tax returns and reports, if any, for the longer of (1) five (5) years from the time of filing or (2) with respect to any such tax return of the Joint Venture Company, until the expiration of the statute of limitations on the assessment of income tax liabilities for the taxable year of each Member in which the income required to be shown on such tax return of the Joint Venture Company is required to be included (and each Member shall promptly respond to requests from the officers of the Joint Venture Company in order to determine whether such statute of limitations has expired);

(E) a copy of this Agreement, together with any amendments;

(F) copies of any financial statements of the Joint Venture Company and its Subsidiaries for the greater of its seven (7) most recent years or all open taxable years;

(G) copies of all Proposed Business Plans, Approved Business Plans, Member Business Plans and Operating Plans;

(H) minutes of meetings of the Members, the Board of Managers, and any other committee appointed by the Board of Managers from time to time and all written consents in lieu of a meeting; and

(I) any other records required to be maintained by the Act.

10.2 Access to Information.

(A) To the extent not in violation of Applicable Law, each Member and its agents (which may include employees of the Member or the Member's independent certified accountants) shall have the right, at any reasonable time, to inspect, review, copy and audit (or cause to be audited) at the expense of the inspecting Member any and all properties, assets, books of account, corporate records, contracts, documentation and any other material of the Joint Venture Company or any of its Subsidiaries, at the request of the inspecting Member. Upon such request, the Joint Venture Company and each of its relevant Subsidiaries shall use reasonable efforts to make available to such inspecting Member the Joint Venture Company's accountants and key employees for interviews to verify information furnished or to enable such Member to otherwise review the Joint Venture Company or any of its Subsidiaries and their operations. Such availability is conditioned upon the terms and conditions of the Confidentiality Agreement.

(B) The Members recognize that the Joint Venture Company may, from time to time, be in possession of Competitively Sensitive Information belonging to a Member or its Relatives, and in no event shall a Member be entitled to access any Competitively Sensitive Information of the other Member or its Relatives in the possession of the Joint Venture Company. The Joint Venture Company shall maintain procedures reasonably acceptable to both Members (including requiring that the Members use reasonable efforts to label or otherwise identify Competitively Sensitive Information as such) to ensure that the Joint Venture Company will not disclose or provide Competitively Sensitive Information of one Member or its Relatives to the other Member (other than to a Joint Venture Company employee or to a Seconded Employee of the other Member to the extent required for such employee or Seconded Employee to perform his or her duties for the Joint Venture Company) or any third party unless such disclosure is specifically requested by the Member or its Relatives providing such Competitively Sensitive Information. The Joint Venture Company shall not be liable for inadvertent disclosures of Competitively Sensitive Information that was not labeled or identified as such.

(C) Upon request, each Member agrees to use reasonable efforts to provide the other Member and the Joint Venture Company with reasonable access to those portions of its facilities and to those items of its equipment that are being used to provide services to the Joint Venture Company, and to those employees who are providing services to the Joint Venture Company, to verify information regarding such operations or enable such Member and the Joint Venture Company to otherwise review the services being provided to the Joint Venture Company.

10.3 Operations Reports. Subject to Section 10.2(B), the Joint Venture Company and each of its Subsidiaries shall provide both Members with all quarterly, monthly and weekly reporting packages containing such manufacturing and production reports as may be required to be delivered under any agreement with, or otherwise requested by, either Member.

10.4 Financial Reports. The Joint Venture Company and each of its Subsidiaries shall provide the Members the following:

(A) Monthly Reports.

(1) for each Fiscal Month, the Joint Venture Company, and if requested, each of its Subsidiaries, shall provide each Member with the following monthly reports prepared in accordance with Modified GAAP consistently applied, in each case within the time period specified below:

(a) Monthly Flash Report within eight (8) days after the end of each Fiscal Month;

(b) monthly cash flow report within fifteen (15) days after the end of each Fiscal Month;

(c) month-end balance sheet within fifteen (15) days after the end of each Fiscal Month;

(d) monthly profit and loss statement within fifteen (15) days after the end of each Fiscal Month;

(e) monthly operational spending summary within fifteen (15) days after the end of each Fiscal Month; and

(f) such other reports as may be required to be delivered under any agreement with, or otherwise reasonably requested by, either Member.

(2) With respect to each of the monthly reports set forth in Section 10.4(A)(1), each Member may provide a sample format for such monthly report as is necessary and appropriate.

(B) Quarterly Reports. (1) As soon as available, but not later than twenty (20) days after the end of each Fiscal Quarter (other than Fiscal Quarters ending on the last day of a Fiscal Year, *provided* that the information required by this Section 10.4(B) will be included in the reports delivered pursuant to Section 10.4(C) below for the Fiscal Year ending on such date), the Joint Venture Company shall provide to each Member a consolidated balance sheet of the Joint Venture Company as of the end of such period and consolidated statements of income, cash flows and changes in Members' equity, as applicable, for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period of the preceding Fiscal Year, and including comparisons to the Approved Business Plan, each prepared in accordance with Modified GAAP. The Financial Officer shall discuss with the

Members such quarterly financial data and the business outlook of the Joint Venture Company and its Subsidiaries and shall be available to respond to questions from the Members regarding such data and outlook.

(2) In addition, as soon as available, but not later than thirty (30) days after the end of each Fiscal Quarter, the Joint Venture Company shall provide to each Member a consolidated balance sheet of the Joint Venture Company as of the end of each Fiscal Quarter and consolidated statements of income and changes in Members' equity, as applicable, for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period of the preceding Fiscal Year (to the extent such comparison is appropriate), each prepared in accordance with GAAP. The Joint Venture Company shall also provide a reconciliation that describes and quantifies the differences between the consolidated financial statements prepared in accordance with GAAP and the consolidated financial statements prepared in accordance with Modified GAAP. The non-Consolidating Member may reasonably request that the Consolidating Member use its reasonable efforts to engage the Consolidating Member's external auditor to perform certain agreed-upon procedures with respect to such reconciliation. Upon such request, the Consolidating Member shall not unreasonably deny or delay such request. The non-Consolidating Member shall promptly reimburse the Consolidating Member for the incremental costs incurred by the Consolidating Member with respect to the performance of such agreed-upon procedures by the Consolidating Member's external auditor.

(C) Annual Audit. As soon as available, but not later than ninety (90) days after the end of the first Fiscal Year of the Joint Venture Company ended August 31, 2006, and not later than sixty (60) days after the end of each Fiscal Year of the Joint Venture Company thereafter, audited consolidated financial statements of the Joint Venture Company and its Subsidiaries, which shall include statements of revenues and expenses, of cash flows and of changes in Members' equity, as applicable, for such Fiscal Year and a balance sheet as of the last day thereof, each prepared in accordance with Modified GAAP, consistently applied, and accompanied by the report of a firm of independent certified public accountants selected from time to time by the Board of Managers (the "**Accountants**").

(D) Right to Audit. Either Member may conduct a separate audit of the Joint Venture Company's financial statements and internal controls over financing reporting at its own expense, and the Members agree to use all reasonable efforts to coordinate the timing of any separate audits that any Member elects to conduct.

10.5 Reportable Events.

(A) The Joint Venture Company shall provide notice to the Members of any Member Reportable Event as soon as possible and in any event no later than [***] ([***]) days following the occurrence of said event. The following events shall be "**Member Reportable Events**":

(1) any action by the Joint Venture Company or a Subsidiary of the Joint Venture Company that will result in recording an impairment of assets of the Joint Venture Company or any of its Subsidiaries, including without limitation, intangibles, goodwill, fixed assets, accounts receivable and inventory, that is expected to exceed $[***], individually or when aggregating other similar assets impaired at the same time;

(2) any decision to shutdown a business unit, close a facility, dispose of long-lived assets or terminate employees (in a FAS 146 plan of termination) whereby the Joint Venture Company or a Subsidiary of the Joint Venture Company may incur an accounting charge that would exceed $[***];

(3) entry by the Joint Venture Company or a Subsidiary of the Joint Venture Company into any off-balance sheet arrangement (unconsolidated transactions with a third party under which the entity retains or has a contingent interest in transferred assets or is obligated under derivative instruments classified in equity, or with a third party that constitutes a "variable interest entity" under FIN 46);

(4) the execution, amendment or termination of a contract that meets one of the following thresholds:

(a) patent, copyright or trademark license requiring payment of more than $[***];

(b) technology licenses requiring payment of more than $[***];

(c) contracts for supply of equipment or materials (i) from either a sole source (single qualified source or true sole source), a supplier with only one site, or a supplier located only in a "high risk" geographic area and (ii) where interruption of supply may cause a key Joint Venture Product to experience a launch delay or production interruption with revenue impact of more than $[***] in a ninety (90)-day period; and

(d) other contracts with a value in excess of $[***]; and

(5) entry into any short-term debt (payable within one year), long-term debt, capital lease, operating lease or guaranty in excess of $[***].

(B) The Joint Venture Company shall provide notice to the Members of any Joint Venture Reportable Event as soon as possible and in any event no later than [***] ([***]) days after the Joint Venture Company becomes aware of such Joint Venture Reportable Event. The following events shall be "**Joint Venture Reportable Events**":

(1) receipt by the Joint Venture Company or any of its Subsidiaries of an offer to buy an Interest in the Joint Venture Company or any of its Subsidiaries or a significant amount of its assets or to merge or consolidate with the Joint Venture Company or any of its Subsidiaries, or any indication of interest from any Person with respect to any such transaction;

(2) the commencement, or threat delivered in writing, of any lawsuit involving the Joint Venture Company or any of its Subsidiaries;

(3) the receipt by the Joint Venture Company or any of its Subsidiaries of a notice that the Joint Venture Company or any of its Subsidiaries is in default under any loan agreement to which the Joint Venture Company or any of its Subsidiaries is a party;

(4) any breach by the Joint Venture Company or any of its Subsidiaries or a Member or an Affiliate of a Member of any contract, agreement or understanding between the Joint Venture Company or any of its Subsidiaries and a Member or an Affiliate of a Member;

(5) any recall of, or other significant alleged product defects with respect to, any product manufactured by the Joint Venture Company or any of its Subsidiaries, whether or not as a result of a request or order by any Governmental Entity;

(6) any material adverse change with respect to the current status of any item of intellectual property rights owned by the Joint Venture Company or any of its Subsidiaries ("**Intellectual Property Rights**"), including receipt of any adverse notice from any Governmental Entity with respect to such item of Intellectual Property Rights and notice of any action taken or threatened by any third party that could affect the validity of any item of Intellectual Property Rights;

(7) the removal or resignation of the Accountants for the Joint Venture Company, or any adoption, or material modification, of any significant accounting policy or tax policy other than those required by GAAP; or

(8) any other event that has had, or could reasonably be expected to have, a material adverse effect on the business, results of operations, financial condition or assets of the Joint Venture Company or any of its Subsidiaries.

10.6 Tax Information.

(A) Estimated Tax Information. The Financial Officer shall deliver the following information to each Member, as provided below:

(1) on or prior to the date that is ninety (90) days following the end of each Joint Venture Company taxable year, an estimate of the United States federal and material state taxable income of the Joint Venture Company for such taxable year; and

(2) on or prior to the date that is thirty (30) days following the end of each Joint Venture Company taxable quarter, an estimate of the United States federal and material state taxable income of the Joint Venture Company for the taxable year of the Joint Venture Company as of the end of such taxable quarter.

(B) Tax Returns. The Financial Officer shall deliver to each Member, on or prior to the date that is one hundred twenty (120) days following the end of each Joint Venture

Company taxable year, a draft of the United States federal and material state income tax returns (and related attachments including Schedule K-1) of the Joint Venture Company for such taxable year. Each Member shall have fifteen (15) days to review such tax returns and provide written comments thereon to the Joint Venture Company, and to the extent the Joint Venture Company does not intend to incorporate such comments into such tax returns the Joint Venture Company and the Members shall attempt to resolve any disagreements within fifteen (15) days after the delivery of such comments to the Joint Venture Company. If the Members and the Joint Venture Company are unable to resolve any disputes regarding the content of such tax returns within such fifteen (15)-day period, the issue or issues shall be referred for resolution to a partner at a "Big 4" accounting firm (or other nationally recognized accounting firm) reasonably acceptable to the Members and the Joint Venture Company, who shall be requested to resolve open issues, on the basis of the position most likely to be sustained if challenged in a court having initial jurisdiction over the matter (which for federal income tax issues shall be deemed to be the United States Tax Court), no later than one hundred eighty (180) days following the end of such taxable year. The decision of such accounting firm shall be final and binding on the Members and the Joint Venture Company, and the costs of such accounting firm shall be Joint Venture Company costs. The Joint Venture Company shall deliver final income tax returns (including related schedules) to the Members within two hundred twenty (220) days after the end of each taxable year of the Joint Venture Company, but not prior to the resolution of disputes among the Members and the Joint Venture Company with respect to such tax returns; *provided* that if such tax returns become due (taking into account extensions of time to file, which the Joint Venture Company shall seek as necessary to avoid the delinquent filing of its tax returns) they shall be filed as determined by the Joint Venture Company and shall be amended and re-filed as required by the outcome of the referral to the accounting firm as provided herein.

10.7 Tax Matters and Tax Matters Partner. The [***] at the end of a given taxable year (or, if there is no [***] at such time, the Member that served as the Tax Matters Partner for the prior year) shall serve as the "**Tax Matters Partner**" under the Code and in any similar capacity under state, local or foreign law for such year. The Tax Matters Partner shall supply such information to the Internal Revenue Service as may be necessary to cause the other Member to be a "notice partner" as defined in Code Section 6231(a)(8). The Tax Matters Partner shall keep each Member informed of any administrative or judicial proceeding relative to any adjustment or proposed adjustment at the Joint Venture Company level of Joint Venture Company items, and shall provide the other Member with notice and an opportunity to participate in significant meetings or other proceedings (both in person and by telephone), preparation of correspondence and other significant events with respect to taxes pertaining to the Joint Venture Company. Without the prior written approval of all Members, the Tax Matters Partner shall not (a) enter into any settlement agreement with the Internal Revenue Service which purports to bind or otherwise could adversely affect Persons other than the Tax Matters Partner and any Members who agree in writing to be bound by such agreement, (b) file a petition as contemplated by Sections 6226(a) or 6228 of the Code, (c) intervene in any action as contemplated by Section 6226(b) of the Code, (d) file any request as contemplated by Section 6227(c) of the Code, (e) enter into an agreement extending the period of limitation as contemplated by Section 6229(b)(1)(B) of the Code, (f) take any actions comparable to those described in clauses (a) through (e) under state, local or foreign tax law or (g) take any other action in its capacity as Tax Matters Partner that could significantly affect the tax liability of the other Member.

10.8 Bank Accounts and Funds. Except as otherwise provided in Section 2.2, Joint Venture Company funds, including cash Capital Contributions, shall be deposited in an interest-bearing account or accounts in the name of the Joint Venture Company and shall not be commingled with the funds of any Member, Manager or any other Person. All checks, orders or withdrawals shall be signed by any one or more Persons as authorized by the Board of Managers and subject to the approval rights set forth in Section 10.9(E).

10.9 Internal Controls.

(A) The Joint Venture Company shall have in place a system of internal controls over financial reporting in accordance with the policies of the Consolidating Member as of the Effective Date, the design and operation of which shall be monitored and approved by the Board of Managers and the Financial Officer. Changes to the Joint Venture Company's system of internal controls over financial reporting shall be made at the request of either Member (and if requested by the non-Consolidating Member, the non-Consolidating Member shall reimburse the Joint Venture Company for its reasonable costs incurred in implementing the changes), subject to the other Member's approval, which approval shall not be unreasonably withheld, and, subject to the approval of the Board of Managers and the approval of the Financial Officer, which shall not be unreasonably withheld; *provided*, *however*, that in the event of a Change of Consolidating Member, the internal controls over financial reporting and accounting systems of the Joint Venture Company shall, at the Joint Venture Company's expense, be modified as necessary to satisfy the new Consolidating Member's requirements relating to internal controls over financial reporting, and such Member shall be entitled to receive the information and perform the testing that either it or such Member's auditors deem necessary or advisable to satisfy their responsibilities related thereto.

(B) Each Member shall be entitled, at its own expense, to have one or more internal auditors (not to exceed three (3) internal auditors at any single Facility) located on site at the offices and facilities of the Joint Venture Company with full access to all of the Joint Venture Company's financial and manufacturing records and reporting systems; *provided*, *however*, that such internal auditors shall be required to abide by the procedures maintained by the Joint Venture Company pursuant to Section 10.2(B) for preventing the inappropriate sharing of such information.

(C) The Consolidating Member shall provide to the non-Consolidating Member such information as the non-Consolidating Member may reasonably request in connection with the assessment of whether a Change of Consolidating Member has occurred or may occur. The Consolidating Member, if it is the Non-Funding Member with respect to any outstanding Member Notes, shall promptly notify the non-Consolidating Member if it has determined that it is reasonably likely to not contribute to the Joint Venture Company any amounts to be used to repay any such Member Notes in accordance with Article 3.

(D) The Consolidating Member shall make available to the non-Consolidating Member the findings of the external auditor of the Consolidating Member with respect to the Consolidating Member's annual audit and of its internal control over financial reporting to the extent such findings are applicable to the internal control over financial reporting of the Joint Venture Company. The non-Consolidating Member may reasonably request that the

Consolidating Member use its reasonable efforts to engage the Consolidating Member's external auditor to perform certain agreed-upon procedures with respect to such internal control over financial reporting of the Joint Venture Company. Upon such request, the Consolidating Member shall not unreasonably deny or delay such request. The non-Consolidating Member shall promptly reimburse the Consolidating Member for the incremental costs incurred by the Consolidating Member with respect to the performance of such agreed-upon procedures by the Consolidating Member's external auditor.

(E) The internal controls over financial reporting referenced in this Section 10.9 shall provide, among other things, that prior to the Management Conversion Date, Joint Venture Company expenditures greater than $[***] shall require approval of both Authorized Officers and shall thereafter require the approval of the Chief Executive Officer; *provided*, *however*, that a decision to approve or disapprove any such expenditure shall be made in a manner consistent with the [***] Budget and [***] Budget or Annual Budget, as applicable, included in the then-effective Approved Business Plan.

ARTICLE 11.
BUSINESS PLAN

11.1 Initial Business Plan; Initial Budgets.

(A) Initial Approved Business Plan. As of the Effective Date, the Members agreed upon an initial Approved Business Plan (the "**Initial Business Plan**") of the Joint Venture Company and its Subsidiaries covering the operations of the Joint Venture Company and its Subsidiaries from the Effective Date through [***], which is the end of the Applicable Fiscal Quarter (the "**Initial Period**"). The Initial Business Plan shall be deemed to be an Undisputed Approved Business Plan. Notwithstanding anything to the contrary in this Agreement (including, without limitation, all budgets, plans, schedules, exhibits, appendices, ancillary or related agreements relating to this Agreement, each as may have been amended), the [***] Budget, as far as it relates to the [***], shall be null and void for all purposes; *provided*, *however*, that any funds previously contributed to the Joint Venture Company and its Subsidiaries by any Member, including any funds contributed with respect to the [***], shall be retained by the Joint Venture Company and its Subsidiaries for use in accordance with the terms of this Agreement.

(B) Initial Budgets. The Initial Business Plan includes an [***] budget (the "**[***] Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' operating and capital expenditures relating to matters not covered by the [***] Budget shall be made during the Initial Period and the Capital Contributions that will be needed from the Members during each Fiscal Quarter of the Initial Period to fund the [***] Budget. Such operating and capital expenditures will be funded by the Members' Initial Capital Contributions and by [***] Capital Contributions, which [***] Capital Contributions shall not, in the aggregate, exceed the Maximum Incremental Capital Amount. Subject to the last sentence of Section 11.1(A), the Initial Business Plan also includes a budget (the "**[***] Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' operating and capital expenditures for [***] shall be made during the Initial Period and the Capital

Contributions that will be needed from the Members during each Fiscal Quarter of the Initial Period to fund [***] Budget.

(C) Modification of Initial Business Plan. Except as otherwise provided in this Section 11.1(C), the Initial Business Plan shall not be amended, updated, modified or superseded without the unanimous written consent of the Members.

(1) Annual Review of Initial Business Plan. At least ninety (90) days prior to the beginning of each of the [***] and [***] Fiscal [***] of the Initial Period and the Applicable Fiscal Quarter, the Board of Managers shall (in consultation with the Authorized Officers or the Chief Executive Officer, as applicable, and with the Financial Officer) review the Initial Business Plan and determine whether any amendment thereto is necessary. Subject to Section 6.3(A)(11), upon a determination by the Board of Managers that an amendment to the Initial Business Plan is necessary or appropriate, the Board of Managers may approve such amendment (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan) and the Authorized Officers, or the Chief Executive Officer, as applicable, shall thereupon implement such amendment to the Initial Business Plan as promptly as commercially practicable; *provided*, *however*, that any failure of the Board of Managers to approve any amendment to the Initial Business Plan shall result in the continuation of the Initial Business Plan, subject to (a) any prior amendment approved by the Board of Managers and (b) Section 11.1(C)(2).

(2) Member Modification of Initial Business Plan. In addition to any amendment to the Initial Business Plan that may be approved by the Board of Managers pursuant to Section 11.1(C)(1), during the Initial Period:

(a) (i) Each Member shall have the right from time to time to request that the Board of Managers review the Initial Business Plan to consider whether the [***] Budget should be amended to, among other things, adjust the Capital Contribution schedule set forth in the [***] Budget. No such amendment shall cause the [***] Capital Contributions to be made by Micron in accordance with the [***] Budget, as amended, to exceed the Micron Maximum Incremental Capital Amount, nor shall such amendment cause the [***] Capital Contributions to be made by Intel in accordance with the [***] Budget, as amended, to exceed, in the aggregate, the Intel Maximum Incremental Capital Amount. Upon such request, the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the Initial Business Plan and determine whether such amendment to the [***] Budget is necessary or appropriate. If the Board of Managers approves such amendment to the [***] Budget in accordance with Section 6.3(A)(11), such amended [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. Subject to clause (ii) of this Section 11.1(C)(2)(a), any failure of the

Board of Managers to approve any amendment to the [***] Budget shall result in the continuation of the Initial Business Plan without the proposed amendment.

(ii) If the Board of Managers fails to approve such amendment to the [***] Budget requested by a Member, then such Member may submit a proposed amendment to the Initial Business Plan to adjust the Capital Contribution schedule for the [***] Budget (a "**Member [***] Budget**") to the Board of Managers (with a copy delivered to the other Member) for approval. The other Member may, within twenty (20) days thereof, submit an alternate Member [***] Budget to the Board of Managers for approval. In no event shall a Member [***] Budget call for aggregate [***] Capital Contributions to be made by Micron in excess of the Micron Maximum Incremental Capital Amount or by Intel in excess of the Intel Maximum Incremental Capital Amount. If, within twenty (20) days after such twenty (20)-day period, the Board of Managers approves any Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. If the Board of Managers fails to approve a Member [***] Budget within such twenty (20)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member [***] Budget within ten (10) days of such referral, then the [***] shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be a Disputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable.

(b) (i) Each Member shall have the right from time to time to request that the Board of Managers review the Initial Business Plan to consider whether the [***] Budget should be amended to, among other things, adjust the [***] Budget and the Capital Contribution schedule set forth therein. Upon such request, the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the Initial Business Plan and determine whether such [***] Budget or the amendment thereto is necessary or appropriate. If the Board of Managers approves such [***] Budget or the amendment thereto in accordance with Section 6.3(A)(11), such [***] Budget or amended [***] Budget shall become an approved amendment to

the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. Subject to clause (ii) of this Section 11.1(C)(2)(b), any failure of the Board of Managers to approve any amendment to the [***] Budget shall result in the continuation of the Initial Business Plan without the proposed [***] Budget or amendment thereto.

(ii) If the Board of Managers fails to approve such [***] Budget or the amendment thereto requested by a Member, then either Member may submit a proposed amendment to the Initial Business Plan to add a [***] Budget or to adjust a previously adopted [***] Budget and the Capital Contribution schedule contained therein (a "**Member [***] Budget**") to the Board of Managers (with a copy delivered to the other Member) for approval. If a Member submits a Member [***] Budget, the other Member shall have twenty (20) days to present an alternate Member [***] Budget to the Board of Managers for approval. If, within thirty (30) days after such twenty (20)-day period, the Board of Managers approves any Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. If the Board of Managers fails to approve a Member [***] Budget within such thirty (30)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member [***] Budget, such Member [***] Budget shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member [***] Budget within ten (10) days of such referral, then [***] shall become an approved amendment to the Initial Business Plan (and the Initial Business Plan as so amended shall be a Disputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Initial Business Plan as promptly as commercially practicable; *provided that*, except as contemplated by Section 11.2(D)(3) below, such Member [***] Budget set forth in any Disputed Approved Business Plan shall not be inconsistent with the [***]; and *provided further* that the most recently adopted Disputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

11.2 Subsequent Business Plans. This Section 11.2 shall apply with respect to any Fiscal Year or Fiscal Quarter ending after the Initial Period (except that to the extent a Proposed

Business Plan covers the Applicable Fiscal Quarter, the portion of the Proposed Business Plan covering the [***] Budget for such Applicable Fiscal Quarter shall be governed by Section 11.1).

(A) Proposed Business Plan. For each Fiscal Year ending after the end of the Initial Period, the Authorized Officers, or the Chief Executive Officer, as applicable, and the Financial Officer shall prepare a proposed three-year business plan (the "**Proposed Business Plan**") at least ninety (90) days prior to the beginning of the applicable Fiscal Year, which shall address, for the Proposed Business Plan period, (1) [***] by the Joint Venture Company and its Subsidiaries, (2) [***] of Joint Venture Products for sale to the Members, (3) [***] needs, (4) [***] proposed and expected to be incurred, (5) the Joint Venture Company's and its Subsidiaries' [***], (6) [***] needs and sources of the Joint Venture Company and its Subsidiaries, (7) forecasted [***], together with all supporting assumptions, (8) the forecasted [***] expected to be [***] of the Joint Venture Company and its Subsidiaries, (9) the forecasted [***] of the Joint Venture Company and its Subsidiaries, (10) such other business activities as shall be necessary and appropriate and (11) any [***] Approved Business Plan with respect any of the above.

(B) Annual Budgets. Each Proposed Business Plan shall include a fixed budget (the "**Annual Budget**") in accordance with which the Joint Venture Company's and each of its Subsidiaries' [***] are proposed to be made for [***], and a [***] for the Joint Venture Company's and each of its Subsidiaries' [***], subject to the Proposed Business Plan becoming an Approved Business Plan in accordance with Section 11.2(D). The Annual Budget may include (1) a budget for [***], which shall set forth in detail the amount of funds expected to be required for [***] and for [***], (2) a budget for any [***], which shall set forth in detail the amount of funds expected to be required for [***] and for [***] for any [***] included in the Proposed Business Plan and (3) another budget, which shall set forth in detail the amount of funds expected to be required for any other purpose of the Joint Venture Company consistent with its Certificate and Section 1.4, and in each case including provision [***], each as necessary to effectuate the applicable Proposed Business Plan. Any Proposed Business Plan approved in accordance with Section 11.2(D) (as may be amended pursuant to Section 11.2(E)) shall include [***].

(C) Participation in the Development of the Proposed Business Plan. In preparing the Proposed Business Plan, the Authorized Officers, or the Chief Executive Officer, as applicable, and the Financial Officer shall be advised by the Manufacturing Committee.

(D) Submission of Proposed Business Plan for Approval by Board of Managers. The Authorized Officers, or the Chief Executive Officer, as applicable, and the Financial Officer shall submit the Proposed Business Plan to the Board of Managers [***]. The Board of Managers shall review the Proposed Business Plan, including the Annual Budget included in such Proposed Business Plan.

(1) If the Proposed Business Plan receives the approval of the Board of Managers, such Proposed Business Plan shall be approved (the "**Undisputed Approved Business Plan**"); *provided*, *however*, that the most recently adopted Undisputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

(2) If the Board of Managers fails to approve the Proposed Business Plan within thirty (30) days of the submission of such Proposed Business Plan to the Board of Managers, then each Member may, within twenty (20) days after the earlier of the end of such thirty (30)-day period or the date on which the Board of Managers rejects the Proposed Business Plan, submit its own proposed business plan (a "**Member Business Plan**") to the Board of Managers for approval. If, within twenty (20) days after the submission of a Member Business Plan, the Board of Managers approves any Member Business Plan or any other Proposed Business Plan, such Member Business Plan or other Proposed Business Plan shall become an Undisputed Approved Business Plan. If the Board of Managers fails to approve any Member Business Plan or other Proposed Business Plan within such twenty (20)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member Business Plan or any other Proposed Business Plan, such Member Business Plan or other Proposed Business Plan, as applicable, shall be an Undisputed Approved Business Plan. Subject to compliance with the limitations set forth in paragraph (3) below, if such referral does not result in an agreement on a Member Business Plan or any other Proposed Business Plan within ten (10) days of such referral, then the Member Business Plan with the [***], if any, shall be deemed to be the then-adopted Approved Business Plan (such Approved Business Plan, a "**Disputed Approved Business Plan**"); *provided* that, except as contemplated by paragraph (3) below, such Annual Budget set forth in any Disputed Approved Business Plan shall not be inconsistent with the [***] Schedule; and *provided further* that the most recently adopted Disputed Approved Business Plan may be amended from time to time in accordance with Section 11.2(E).

(3) The [***] Schedule, which sets forth the [***] timing for the [***]s, is attached hereto as Schedule 1. The [***] Schedule shall not be amended or modified without the unanimous written consent of the Members; *provided*, *however*, that, if a Member's Economic Interest is at least [***] percent ([***]%), such Member may submit a Member Business Plan that includes an Annual Budget providing for capital expenditures relating to the [***] and [***] with [***] for a [***] that deviates from the [***] Schedule.

(E) Modification of Approved Business Plan.

(1) Each Member, the Authorized Officers, or the Chief Executive Officer, as applicable, or the Financial Officer shall have the right from time to time to request that the Board of Managers review the Joint Venture Company's and its Subsidiaries' operating results and business prospects, the progress to date of the Joint Venture Company's and its Subsidiaries' [***] capital projects, any changes in the requirements for such projects, and the then-current market conditions for the Joint Venture Products, to consider whether the then-effective Approved Business Plan should be amended.

(2) In the event that any material milestone set forth in, or any other material provision of, the Approved Business Plan is not achieved or is achieved earlier than contemplated under the Approved Business Plan, or the occurrence of any event

having a material effect on the assets, business, operations, earnings, prospects, properties or condition (financial or otherwise) of the Joint Venture Company or its Subsidiaries, each Member, the Authorized Officers, or the Chief Executive Officer, as applicable, or the Financial Officer shall have the right to require that the then-effective Approved Business Plan be reviewed by the Board of Managers to consider whether the then-effective Approved Business Plan should be amended.

(3) Upon such request or requirement pursuant to Sections 11.2(E)(1) or (2), the Board of Managers shall, at the next scheduled meeting of the Board of Managers, or at a special meeting called for such purpose, review the then-effective Approved Business Plan and determine whether such amendment is necessary or appropriate. If the Board of Managers approves such amendment to the Approved Business Plan in accordance with Section 6.3(A)(11), such amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement the amended Approved Business Plan as promptly as commercially practicable; *provided*, *however*, that any failure of the Board of Managers to approve any amendment to the Approved Business Plan shall, subject to Section 11.2(E)(4), result in the continuation of such Approved Business Plan without the proposed amendment.

(4) In the event a Member wishes to propose amendments to the Approved Business Plan for any reason or the Board of Managers fails to approve an amendment to an Approved Business Plan under Section 11.2(E)(3), either Member may submit a proposed amendment to the Approved Business Plan (a "**Member Plan Amendment**") to the Board of Managers (with a copy delivered to the other Member) for approval. If a Member submits a Member Plan Amendment, the other Member shall have twenty (20) days to present an alternative Member Plan Amendment. If, within thirty (30) days after such twenty (20)-day period, the Board of Managers approves any Member Plan Amendment, such Member Plan Amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. If the Board of Managers fails to approve a Member Plan Amendment within such thirty (30)-day period, then the matter shall be referred to the Members' Authorized Representatives for resolution. If such referral results in an agreement on a Member Plan Amendment, such Member Plan Amendment shall become an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be an Undisputed Approved Business Plan), and the Authorized Officers, or the Chief Executive Officer, as applicable, shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. If such referral does not result in an agreement on a Member Plan Amendment within ten (10) days of such referral, then the Member Plan Amendment with the [***] for the remainder of the then-current Fiscal Year (or the Member Plan Amendment, if there is only one) shall be deemed to be an approved amendment to the Approved Business Plan (and the Approved Business Plan as so amended shall be a Disputed Approved Business Plan), and the Authorized Officers, or

the Chief Executive Officer, as applicable, shall implement such amendment to the Approved Business Plan as promptly as commercially practicable. Except as contemplated by Section 11.2(D)(3), the Annual Budget (or portion thereof for the remainder of the then-current Fiscal Year) shall not be inconsistent with the [***] Schedule.

11.3 Expenditures. All operating expenditures and all capital expenditures of the Joint Venture Company and its Subsidiaries shall be made in accordance with the [***] Budget, the [***] Budget or the Annual Budget, as applicable, set forth in the applicable Approved Business Plan (each as may be modified or updated in accordance with this Article 11) for the Fiscal Year in which such expenditures are made.

11.4 Fab Criteria. Notwithstanding anything to the contrary in this Agreement, no Approved Business Plan may, without the unanimous consent of the Members, [***].

11.5 Quarterly Business Plan. At least fifteen (15) days prior to the end of each Fiscal Quarter, a quarterly business plan addressing at least the next six (6) full Fiscal Quarters on a rolling basis (which shall be consistent in all material respects with the then-effective Approved Business Plan) shall be prepared by the officers of the Joint Venture Company in a manner consistent with the Joint Venture Company's financial statements and Modified GAAP and reviewed and approved by the Authorized Officers, or the Chief Executive Officer, as applicable, and the Financial Officer.

11.6 Operating Plan.

(A) The Joint Venture Company shall prepare and update an operating plan on a monthly basis (the "**Operating Plan**"). The Operating Plan shall contain a [***], [***] and [***].

(1) The [***] shall address (1) Joint Venture Products [***] by the Joint Venture Company and its Subsidiaries during the [***] (which shall be derived from the [***] developed by the [***]), (2) [***] of [***] during the applicable [***], (3) target [***] during the [***], (4) Joint Venture [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(2) The [***] shall address (1) strategy and capability for [***] by the Joint Venture Company, its Subsidiaries, and subcontractors during the [***] (which shall be derived from the [***] developed by the [***]), (2) [***] of [***] during the [***], (3) target [***] by [***] during the [***], (4) [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(3) The [***] shall address (1) strategy and capability for [***] by the Joint Venture Company, its Subsidiaries and subcontractors during the [***] (which shall be derived from the [***] developed by the [***]), (2) [***] of [***] during the [***], (3) [***] during the [***], (4) [***] qualifications and (5) such other [***] activities as shall be necessary and appropriate.

(4) The Joint Venture Company shall prepare a report on a monthly basis, which report will include information on the operations of the Joint Venture Company, its Subsidiaries and its subcontractors in respect of the topics addressed in the Operating Plan (the "**Monthly Operating Report**").

(B) Participation in the Development of the Operating Plan. The Operating Plan, unless otherwise determined by the Board of Managers, shall incorporate Micron's Process of Record and Model of Record, as amended from time to time by Micron.

11.7 Use of Member Names. Except as may be expressly provided in the Joint Venture Documents, nothing in this Agreement shall be construed as conferring on the Joint Venture Company, any Subsidiary of the Joint Venture Company or either Member the right to use in advertising, publicity, marketing or other promotional activities any name, trade name, trademark, servicemark or other designation, or any derivation thereof, of the Members (in the case of a Member, the other Member).

11.8 Insurance. The Joint Venture Company shall at all times be covered by insurance of the types and in the amounts set forth on Schedule 2 hereto. Such insurance coverage may be provided through the coverage under one or more insurance policies maintained by either Member.

ARTICLE 12.
TRANSFER RESTRICTIONS

12.1 Restrictions on Transfer. No Member may, directly or indirectly, by operation of law or otherwise, sell, assign or transfer or otherwise encumber (whether by pledge or otherwise), or create a class of tracking stock or other derivative security in respect of (each of the foregoing, a "**Transfer**") all or any portion of its Interest in the Joint Venture Company or any of its Subsidiaries or any Member Note, or any interest therein, and the Joint Venture Company and its Subsidiaries shall not recognize any Transfer of a Member's Interest in the Joint Venture Company or any of its Subsidiaries or any Member Note, other than a Transfer permitted in accordance with Sections 12.2, 12.4(A), 12.4(B) and 12.5. Neither (A) a Transfer of securities issued by a Member nor (B) a Member Change of Control shall constitute a Transfer prohibited by this Section 12.1; *provided*, *however*, that in the event of a Member Change of Control, the provisions of Section 13.1(A)(7)(ii) shall apply.

12.2 Permitted Transfers. Notwithstanding the restrictions on Transfer set forth in Section 12.1, a Member may Transfer all, but not less than all, of its Interest in the Joint Venture Company and any Member Note (including the right to receive any accrued interest thereon) to a Wholly-Owned Subsidiary of such Member, *provided* that, (i) such Wholly-Owned Subsidiary is established, organized or incorporated within the United States, (ii) while such Wholly-Owned Subsidiary holds such Interest or any Member Note it remains a Wholly-Owned Subsidiary of the original Member established, organized or incorporated in the United States, (iii) such transferring Member shall remain liable for its Subsidiary's failure to perform the obligations associated with such transferred Interest (including the obligations set forth in this Agreement), and (iv) prior to the effectiveness of any permitted Transfer, the transferring Member shall

deliver to the Board of Managers and all of the other Members of the Joint Venture Company the following:

(A) a certificate of the transferring Member that the Transfer will not, and could not reasonably be expected to, cause an adverse effect on the Joint Venture Company or any of its Subsidiaries or the non-transferring Member, including any adverse effect on, or resulting loss of, any of the Intellectual Property Rights of the Joint Venture Company or any of its Subsidiaries;

(B) evidence reasonably satisfactory to the other Member that all of the following conditions have been satisfied:

(1) the transferring Member and its Affiliates (excluding any Applicable Joint Venture and any Wholly-Owned Subsidiary of any Applicable Joint Venture unless the material breach by such Applicable Joint Venture or Wholly-Owned Subsidiary of any Applicable Joint Venture was caused, directly or indirectly, by the transferring Member) are not in material breach of any provision of this Agreement or any agreement with the Joint Venture Company or any of its Subsidiaries (collectively, the "**Affiliate Agreements**");

(2) the transferee of the Member's Interest or any Member Note is financially capable of carrying out the obligations and paying any liabilities of the transferring Member pursuant to this Agreement and the Affiliate Agreements;

(3) notwithstanding the continuing liability of the transferring Member described above, the transferee has agreed in writing to assume all of the obligations of the transferring Member relating to the transferred Interest or any Member Note, including the obligations set forth in this Agreement and any Affiliate Agreement it properly assumes;

(4) the transferee executes and becomes a party to the Confidentiality Agreement;

(5) the Transfer will not result in material adverse tax consequences to the Joint Venture Company or to the other Member (unless the Member engaging in such Transfer reimburses the other Member or the Joint Venture Company, as the case may be, for such tax consequences, which reimbursement and payment shall not affect the Capital Contributions of the Members);

(6) the Transfer will not result in a Liquidating Event, or in an event or condition that with the giving of notice or the passage of time or both would constitute a breach or default, by either the transferring Member or the transferee, under this Agreement or any of the Affiliate Agreements; and

(7) the transferring Member shall have, and shall have caused each of its Relatives to have, amended any Applicable Joint Venture Agreements to which it is a party in order to add the transferee as a Relative under such Applicable Joint Venture Agreement.

12.3 Additional Members. No Person shall be admitted to the Joint Venture Company as a Member other than Intel, Micron or any substitute Member for Intel or Micron (as provided in Section 12.2).

12.4 Certain Purchases.

(A) Purchase of Additional Interest. During the period commencing on the two (2)-year anniversary of the Effective Date and at any time that Intel is a Member and its Economic Interest (without taking into account in the Committed Capital of such Member or in the aggregate Committed Capital of all Members, the outstanding amount under any Mandatory Note payable to Intel) is less than 51% but at least 49%, Intel shall have the right to purchase from Micron, and upon the exercise of such right Micron shall sell to Intel, an Interest representing a percentage (the "**Option Percent**") of the Members' aggregate Interests necessary to bring Intel's Economic Interest to 51% (computed by shifting from the Capital Contribution Balance (and Committed Capital) of Micron to the Capital Contribution Balance (and Committed Capital) of Intel the minimum sum necessary to raise the Economic Interest of Intel to 51%). The purchase price to be paid by Intel for such Interest shall be an amount in cash equal to the [***] Value; *provided*, *however*, that the purchase price shall in no event be (i) lower than an amount equal to the Option Percent [***] by the [***] of the [***] of the Joint Venture Company and its Subsidiaries (the "**Floor Amount**"), or (ii) greater than the product of [***], multiplied by the Floor Amount (the "**Cap Amount**"). If the Purchase Value is determined to be lower than the Floor Amount, or greater than the Cap Amount, then the purchase price shall be an amount equal to the Floor Amount or the Cap Amount, respectively. Intel may exercise this purchase right by delivering a written notice of its intent to exercise to the Joint Venture Company and Micron. The closing of the purchase and sale shall take place on a date agreed to by the Joint Venture Company, Micron and Intel, but in no event later than thirty (30) days following the date the notice is delivered. Such closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Joint Venture Company, Micron and Intel may mutually determine. At the closing, the Joint Venture Company shall record in its books and records the contemplated shift in the Members' Capital Contribution Balances, and the appropriate changes to the Capital Accounts of the Members, and Intel shall pay to Micron the purchase price for such Option Percent by wire transfer of immediately available funds.

(B) Purchase of Additional Interest to Effect a Change in Consolidating Member. Subject to the terms and conditions of this Section, Intel shall have the right to effect a Change in Consolidating Member. Intel may exercise this right to effect a Change in Consolidating Member by delivering a written notice of its intent to exercise to the Joint Venture Company and Micron; *provided*, *however*, that the exercise of such right by Intel shall be subject to the prior written consent of Micron. Upon the exercise of such right, Intel shall purchase from Micron, and Micron shall sell to Intel, an Interest representing a percentage (the "**Consolidating Option Percent**") of the Members' aggregate Interests necessary to bring Intel's Economic Interest to 51% (computed by shifting from the Capital Contribution Balance (and Committed Capital) of Micron to the Capital Contribution Balance (and Committed Capital) of Intel the minimum sum necessary to raise the Economic Interest of Intel to 51%). The purchase price to be paid by Intel for such Interest shall be an amount in cash equal to the [***] Value; *provided*, *however*, that the purchase price shall in no event be lower than an amount equal to the Consolidating Option Percent [***] by the [***] of the [***] of the Joint Venture Company and

its Subsidiaries (the "**Consolidating Floor Amount**"). If the Purchase Value is determined to be lower than the Consolidating Floor Amount then the purchase price shall be an amount equal to the Consolidating Floor Amount. The closing of the purchase and sale shall take place on a date agreed to by the Joint Venture Company, Micron and Intel, but in no event later than thirty (30) days following the date the notice is delivered. Such closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Joint Venture Company, Micron and Intel may mutually determine. At the closing, the Joint Venture Company shall record in its books and records the contemplated shift in the Members' Capital Contribution Balances, and the appropriate changes to the Capital Accounts of the Members, and Intel shall pay to Micron the purchase price for such Consolidating Option Percent by wire transfer of immediately available funds.

12.5 Purchase of Remaining Interest.

(A) If the Economic Interest of a Member (the "**Minority Member**") drops to ten percent (10%) or less and remains at or below ten percent (10%) for more than six (6) consecutive months, the other Member or a Subsidiary thereof (such other Member or Subsidiary thereof, the "**Majority Member**") shall have the option, exercisable at any time prior to the day that is six (6) months prior to the end of the Initial Term, to purchase all of the remaining Interest of, and outstanding Member Notes payable to, the Minority Member at a cash purchase price equal to the Option Price, subject to the terms and conditions set forth in Section 12.5(C). The Majority Member may exercise this purchase option by delivering a written notice of its intent to exercise to the Minority Member. The closing of the purchase and sale of the Minority Member's remaining Interest and any outstanding Member Notes held by the Minority Member (the "**Minority Closing**") shall take place as of the last day of the Fiscal Month in which the notice is delivered (unless such notice is delivered within the last ten (10) days of the end of a Fiscal Month, in which case the Minority Closing shall take place on the last day of the first full Fiscal Month thereafter). Such Minority Closing shall take place at the principal office of the Joint Venture Company, or at such other location as the Majority Member and the Minority Member may mutually determine. At the Minority Closing, (i) the Minority Member shall transfer its remaining Interest in the Joint Venture Company and outstanding Member Notes held by the Minority Member to the Majority Member, free and clear of any liens or encumbrances, (ii) the Majority Member shall pay the Minority Member the Minority Closing Price by wire transfer of immediately available funds and (iii) the Minority Member shall deliver to the Majority Member such instrument of conveyance as the Majority Member reasonably requests.

(B) Upon the Minority Closing, the Majority Member shall pay to the Minority Member a sum (the "**Minority Closing Price**") equal to the [***] of (i) the [***] of (a) the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of the last day of the Fiscal Month immediately prior to the Minority Closing, [***] (b) the [***] of all [***] of the Joint Venture Company and its Subsidiaries as of the last day of the Fiscal Month immediately prior to the Minority Closing (excluding, however, any liabilities with respect to Member Notes), and (ii) the Economic Interest of the Minority Member at the time the option provided for in Section 12.5(A) is exercised. Within five (5) Business Days after the month-end balance sheet (prepared in accordance with Modified GAAP consistently applied) as of the date of the Minority Closing becomes available, the Minority Closing Price shall be recalculated using the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of such date

and the [***] of the [***] of the Joint Venture Company and its Subsidiaries as of such date (excluding any liabilities with respect to Member Notes) (such recalculated sum, the "**Option Price**"). If the Option Price is greater than the Minority Closing Price, the Majority Member shall deliver the difference to the Minority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation. If the Option Price is less than the Minority Closing Price, the Minority Member shall refund the difference to the Majority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation.

(C) Upon an election of the Majority Member to purchase the Minority Member's remaining Interest and the outstanding Member Notes held by such Minority Member pursuant to Section 12.5(A), if the Minority Member is Micron, then the following shall apply:

(1) Micron shall, at its option, exercisable by written notice to Intel not more than five (5) days after the exercise of the option contemplated by Section 12.5(A), purchase either (i) the [***] or (ii) all of the equity interest in any U.S. Facilities Company that owns or leases only the [***]. The purchase price shall be the [***] of the [***] or of such [***] Facilities Company, as applicable (excluding, for purposes of this determination, any [***] attributable to the [***]). The closing of the purchase and sale provided for in this Section 12.5(C)(1) (the "**Micron Minority Closing**") shall take place on the same date, at the same time and at the same location as the Minority Closing. At the Micron Minority Closing, (x) the Joint Venture Company shall transfer the purchased assets, rights and equity interest to Micron, free and clear of any liens or encumbrances other than liens securing indebtedness exclusively associated with the Fab located at the [***], (y) Micron shall pay the Joint Venture Company the purchase price determined in accordance with this Section 12.5(C)(1) by wire transfer of immediately available funds and (z) the Joint Venture Company shall deliver to Micron such instrument(s) of conveyance as Micron reasonably requests.

(2) Micron shall pay to the Joint Venture Company an amount equal to the [***].

(3) The [***] shall terminate at the time of the Micron Minority Closing with no payment obligation, other than as contemplated by Section 12.5(C)(2), thereunder by Micron; *provided*, *however*, that in the event that Micron fails to acquire the [***] under Section 12.5(C)(1), the [***] shall continue for a reasonable period of time to allow the Joint Venture Company to remove the [***] from the [***], and Micron shall permit the Joint Venture Company to have reasonable access to the [***], for a reasonable period and on a reasonable basis, in order to remove such [***] from the [***].

(4) The Boise Supply Agreement shall continue for the remainder of its term, if any, but shall be modified such that a percentage of the products to be sold thereunder equal to the Sharing Interest of Micron at the time of the exercise of the option under Section 12.5(A) shall be retained by Micron and the remaining portion shall be sold to the Joint Venture Company (which may then assign its rights and obligations thereunder to Intel).

(5) Micron may, at its option, cause to continue in effect any existing supply agreements it has with the Joint Venture Company or any Subsidiary of the Joint Venture Company for [***]from the Minority Closing with the same amounts and at the same delivery schedule, pricing and terms as are in effect on the date of the Minority Closing; *provided*, *however*, that the quantity of Products Micron shall be entitled to purchase thereunder, measured in 300 millimeter equivalents, shall be the [***] between (i) the quantity (determined based on the three (3)-month period immediately preceding the Minority Closing) of Products Micron would have been permitted to purchase had the option provided for in Section 12.5(A) not been exercised, and (ii) the [***] of (a) the quantity of Products that the assets acquired by Micron in accordance with Section 12.5(C)(1) have been producing in the ordinary course as determined based on the three (3)-month period immediately preceding the Minority Closing and (b) the quantity of Products that is retained by Micron under Section 12.5(C)(4). Such quantity will be [***] for the first year and then will [***] of such fixed quantity per Fiscal Quarter to [***] over the next [***] Fiscal Quarters. The Members will work together in good faith so that such supply arrangements minimize disruption to the business of the Joint Venture Company and the Members and to maintain, subject to such decline in amount, substantially the same supply of custom Products and substantially the same composition of types of Products as Micron had obtained from the Joint Venture Company immediately prior to the Minority Closing.

ARTICLE 13.
DISSOLUTION AND LIQUIDATION

13.1 Dissolution.

(A) Upon the occurrence of any of the following events (each, a "**Liquidating Event**"), the Joint Venture Company shall dissolve and commence winding up and liquidation activities in accordance with this Article 13 and any other covenants unanimously agreed in writing by the Members, whether or not the event would cause a dissolution under the Act:

(1) the expiration of the Term in accordance with Section 1.3;

(2) the unanimous agreement in writing of the Members to wind up the Joint Venture Company;

(3) the election by a Member with a Percentage Interest of at least [***]% to wind up the affairs of the Joint Venture Company (which election shall not require the consent of the other Member), upon delivery of written notice of such election to the Joint Venture Company and the other Member;

(4) the election of Intel to dissolve the Joint Venture Company in the event of one or more breaches by Micron of either or both of (i) the [***], dated as of the Effective Date, between the Joint Venture Company and Micron or (ii) with respect to any obligations of Micron to [***]or [***]that are [***] at [***], the [***] and [***] Services Agreement, dated as of the Effective Date, between the Joint Venture Company and Micron that remain uncured after any applicable cure period set forth in such

agreement, *provided* that all such breaches described in clauses (i) and (ii) from the Effective Date to the date of such election result in [***] damages to the Joint Venture Company of [***] (that would be recoverable [***] under such agreements) (without taking into account the effect of the dissolution, winding up and liquidation of the Joint Venture Company under this Article 13 and any other covenants unanimously agreed in writing by the Members);

(5) the occurrence of any other event that, under the Act, makes it unlawful, impossible or impractical to carry on the business of the Joint Venture Company;

(6) the election by either Member to wind up the affairs of the Joint Venture Company upon (i) the occurrence of a Bankruptcy of the Joint Venture Company of the type described in clause (iv) of the definition of the term "Bankruptcy," *provided* that the Member making such election is not in default of any payment obligation to the Joint Venture Company or (ii) the Bankruptcy (as hereinafter defined), dissolution or liquidation of a Member, and *further provided* that, in either event, such election shall be made only after entry by the court presiding over the Bankruptcy of an order granting relief from the automatic stay to make such election to the Member making such election;

(7) the election by a Member to wind up the affairs of the Joint Venture Company, if (i) the Joint Venture Company ceases operations for more than [***] or (ii) the other Member undergoes a Member Change of Control; or

(8) Intentionally Omitted.

(9) Intentionally Omitted.

(10) Intentionally Omitted.

(11) the election of a Member by written notice to the Joint Venture Company and the other Member to wind up the affairs of the Joint Venture Company.

(B) For the purposes of this Section 13.1, the term "**Bankruptcy**" shall mean (i) the entry of a decree or order for relief of the Person by a court of competent jurisdiction in any involuntary case involving the Person under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Person or for any substantial part of the Person's assets or property; (iii) the ordering of the winding up or liquidation of the Person's affairs; (iv) the filing with respect to the Person of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to Section 305 of the U.S. Bankruptcy Code (or any corresponding provision of any future U.S. bankruptcy law); (v) the commencement by the Person of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Person to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Person or for any substantial part of the Person's assets

or property; (vii) the making by the Person of any general assignment for the benefit of creditors; or (viii) the failure by the Person generally to pay its debts as such debts become due.

13.2 Determination of [***] Value. Upon the occurrence of a Liquidating Event, the Members shall promptly proceed to determine the [***] Value of the [***] and each other Facility or U.S. Facilities Company (the date of receipt of the last such determination, the "**[***] Determination Date**"). The Members and the Joint Venture Company shall use reasonable efforts to cause the determination to be made as promptly as practicable, but not later than [***] after the Liquidating Event or, in the case of a Liquidating Event under Section 13.1(A)(1), not later than such Liquidating Event.

13.3 No Withdrawal. No Member shall have any right to withdraw from the Joint Venture Company. No event that would constitute a withdrawal of a Member under the Act shall in any way be deemed to be a withdrawal under this Agreement or cause a dissolution of the Joint Venture Company.

13.4 Micron [***] Reimbursement; [***] True-Up Payment.

(A) If a Liquidating Event occurs before the [***] becomes an Operational Fab, Micron shall not be obligated to reimburse the Joint Venture Company for any unused portion of the pre-paid rent under the [***] transferred to the Joint Venture Company by Micron as described in Section 2.1(B). If a Liquidating Event occurs after the [***] becomes an Operational Fab, Micron shall reimburse the Joint Venture Company for any unused portion of the prepaid rent under the [***] transferred to the Joint Venture Company determined as of the day of closing of the Micron [***] Purchase Option, if exercised, or following the sale of the last Facility, or the sale of equity interests in the U.S. Facilities Company that owns or leases the last Facility, to be sold if such option is not exercised and based on the assumption that, for the [***], such prepaid rent was being amortized on a straight line basis over a ten (10)-year period. Such reimbursement shall be paid by Micron to the Joint Venture Company no later than the Liquidation Date and, if not so paid, shall be deducted from the amount to be distributed to Micron under this Article 13.

(B) If a Liquidating Event occurs pursuant to Section 13.1(A)(1), Micron shall, on the Liquidation Date, make a one-time true-up payment to the Joint Venture Company in an amount equal to the [***] as of the date of the termination of the [***]. A real estate appraiser mutually selected by the Members shall determine such [***] on a final and conclusive basis. Such appraiser shall be instructed to consider all factors that in his or her professional opinion may affect the [***].

13.5 Intentionally Omitted.

13.6 Intentionally Omitted.

13.7 Intentionally Omitted.

13.8 Intentionally Omitted.

13.9 Intentionally Omitted.

13.10 Intentionally Omitted.

13.11 Auction of Remaining Assets. As soon as reasonably practicable following the sale or other disposition of the assets of the Joint Venture Company pursuant to any procedures unanimously agreed in writing by the Members, but not later than [***] ([***]) days after the Buyout Determination Date, the Board of Managers shall cause the Joint Venture Company and its Subsidiaries to sell, in an auction process reasonably designed to maximize the price, all of the assets, other than cash, remaining in the Joint Venture Company and its Subsidiaries (the "**Remaining Assets**"). Each of the Members shall be entitled to participate as a bidder in the auction. The Remaining Assets shall be sold to the Person providing the best bid.

13.12 Winding Up. Following the conclusion of any sale conducted in accordance with Section 13.11, the Joint Venture Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. To the extent not inconsistent with the foregoing, all covenants and obligations in this Agreement shall continue in full force and effect until such time as the Joint Venture Company's property has been distributed pursuant to this Section 13.12 and Section 13.13 and the Joint Venture Company has been dissolved in accordance with the Act.

13.13 Liquidation. (A) Upon the occurrence of a Liquidating Event and following the completion of (i) the consummation of any sale of assets in accordance with any covenants unanimously agreed in writing by the Members and (ii) the auction of assets contemplated by Section 13.11 (the date on which all such events have been completed, the "**Liquidation Date**"), the Board of Managers shall act as the liquidating committee of the Joint Venture Company. The liquidating committee shall liquidate the Joint Venture Company's remaining assets and terminate its business in accordance with this Section 13.13. The liquidating committee shall promptly prepare or cause to be prepared, at the expense of the Joint Venture Company, a statement setting forth the assets and liabilities of the Joint Venture Company as of the date of dissolution and shall furnish that statement to all Members. The liquidating committee shall proceed to liquidate any assets of the Joint Venture Company that remain unsold after the auction contemplated by Section 13.11 and to terminate the Joint Venture Company's business as promptly as practicable but shall be allowed a reasonable time for the orderly liquidation of Joint Venture Company assets and the discharge of liabilities to creditors (including Members who are creditors) in order to minimize losses normally incident to a liquidation. The liquidating committee shall have full power and authority to operate Joint Venture Company properties in the ordinary course of business for the account of the Joint Venture Company.

(B) At least ten (10) days prior to the first distribution of assets or other proceeds of the liquidation under Section 13.13(C) (which distribution shall occur no earlier than the Liquidation Date), the liquidating committee shall deliver written notice of such pending first liquidating distribution to both Members. Prior to the time of such first liquidating distribution, (i) any Member that is the Funding Member with respect to any Member Note outstanding at such time may, by delivering written notice to the Joint Venture Company, convert the outstanding principal balance of and accrued interest on such Member Note into a Capital Contribution and (ii) any Member that is the Non-Funding Member with respect to any Member Note outstanding at such time may, by delivering written notice to the Joint Venture Company, cause the Joint Venture Company to convert the outstanding principal balance of and accrued

interest on any such Member Note into a Capital Contribution. Any conversion of a Member Note made pursuant to this Section 13.13(B) shall be effective prior to the commencement of the first liquidating distribution pursuant to Section 13.13(C).

(C) The assets and other proceeds of the liquidation, as and when available, shall be applied and distributed in the following order and priority:

(1) *first*, to the payment of all debts and liabilities of the Joint Venture Company, excluding debts and liabilities to Members and former Members;

(2) *second*, to the setting up of reserves that the liquidating committee deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Joint Venture Company;

(3) *third*, to the payment of all debts and liabilities to Members and any former Members; and

(4) *fourth*, to the Members in accordance with Section 5.1.

(D) In the event that, at the time of a liquidating distribution in accordance with Section 13.13(C), there exists any outstanding obligation of a Member to the Joint Venture Company (including, but not limited to, any amounts owed by such Member to the Joint Venture Company as a result of purchasing assets from the Joint Venture Company in accordance with any covenants unanimously agreed in writing by the Members that remains unpaid), all amounts to be distributed to such Member under Section 13.13(C) shall be subject to offset, and no distribution shall be made to such Member until after all such obligations have been satisfied in full.

13.14 Supply Agreements. Notwithstanding the occurrence of a Liquidating Event, the Boise Supply Agreement shall remain in effect for the remainder of its term, if any, but shall be modified as described in Section 12.5(C)(4) based on the Members' respective Sharing Interests at the time of such Liquidating Event, and the Products to be sold thereunder to, and purchased by, the Joint Venture Company instead shall be sold to, and purchased by, Intel. If a Liquidating Event has occurred, then, from and after the consummation of a sale of assets by the Joint Venture Company in accordance with any covenants unanimously agreed in writing by the Members, each Member shall enter into a supply agreement with the other Member, on substantially the same terms (including amount, delivery schedule, pricing terms and other terms) as the Supply Agreement that the Member entered into with the Joint Venture Company as of the Effective Date, under which each Member agrees to provide the other Member with its Sharing Interest on the date of the Liquidating Event of the output of each type of Product from each of the Facilities purchased by that Member. The quantity (determined based on the three (3)-month period immediately preceding the effectiveness of the contemplated Supply Agreement) of Product, measured in 300 millimeter diameter equivalents (excluding Product provided to either Member under the Boise Supply Agreement) that a Member shall be obligated to provide from each Facility under that Member's supply agreement will be fixed for the first year after the consummation of a sale of assets by the Joint Venture Company or any of its U.S. Facilities Companies in accordance with any covenants unanimously agreed in writing by the

Members and then will decline by [***] ([***]) of such fixed quantity per Fiscal Quarter to [***] ([***]) over the next [***] ([***]) Fiscal Quarters. The Members will work together in good faith so that such supply agreements minimize disruption to the business of the Members and to maintain, subject to such decline in amount, substantially the same supply of custom Products and substantially the same composition of types of Products as the Members had obtained from the Joint Venture Company immediately prior to the date of the Liquidating Event.

13.15 Employees. Each Member shall be free to offer employment to or continue the employment of any or all of the Joint Venture Company employees whose primary place of employment is at a Facility owned or leased by the Joint Venture Company or by any of its U.S. Facilities Companies if such Facility or the equity of such U.S. Facilities Company that owns or leases such Facility is purchased by that Member.

ARTICLE 14.
EXCULPATION AND INDEMNIFICATION

14.1 Exculpation. No Manager (or alternate Manager) shall be liable to the Joint Venture Company, any Subsidiary of the Joint Venture Company or the Members (in their capacities as members of the Joint Venture Company) for monetary damages for breach of fiduciary duty as a Manager or otherwise liable, responsible or accountable to the Joint Venture Company, any Subsidiary of the Joint Venture Company or the Members (in their capacities as members of the Joint Venture Company) for monetary damages or otherwise for any acts performed, or for any failure to act, except that this provision shall not eliminate or limit the liability of a Manager (or alternate Manager) (i) for acts or omissions that involve willful or intentional misconduct or gross negligence or (ii) for any transaction from which the Manager (or alternate Manager) received any improper personal benefit.

14.2 Indemnification.

(A) The Joint Venture Company shall, to the fullest extent permitted by Applicable Law, indemnify, defend and hold harmless (1) each Manager and alternate Manager and (2) the Chief Executive Officer, the Intel Executive Officer, the Micron Executive Officer, the Financial Officer and any other officer or site manager of the Joint Venture Company (each, an "**Executive Indemnified Party**" and collectively with the Managers, the "**Indemnified Party**"), against any losses, claims, damages or liabilities to which such Indemnified Party may become subject in connection with any matter arising out of or incidental to any act performed or omitted to be performed by any such Indemnified Party in connection with this Agreement or the Joint Venture Company's or any of its Subsidiaries' business or affairs; *provided*, *however*, that in the case of an Executive Indemnified Party, such act or omission was taken in good faith and was reasonably believed by the Executive Indemnified Party, as applicable, to be within the scope of authority granted to such Executive Indemnified Party; and *provided further*, *however*, that in the case of any Indemnified Party such act or omission was not attributable in whole or in part to the fraud, bad faith, willful misconduct or gross negligence of such Indemnified Party. If an Indemnified Party becomes involved in any capacity in any action, proceeding or investigation in connection with any matter arising out of or in connection with this Agreement or the Joint Venture Company's or any of its Subsidiaries' business or affairs, the Joint Venture

Company shall reimburse such Indemnified Party for its reasonable legal and other reasonable out-of-pocket expenses (including the cost of any investigation and preparation) as they are incurred in connection therewith, *provided* that such Indemnified Party shall promptly repay to the Joint Venture Company the amount of any such reimbursed expenses paid to it if it shall ultimately be determined that such Indemnified Party was not entitled to be indemnified by the Joint Venture Company in connection with such action, proceeding or investigation. If for any reason (other than the fraud, bad faith, willful misconduct or gross negligence of such Indemnified Party) the foregoing indemnification is unavailable to such Indemnified Party, or insufficient to hold it harmless, then the Joint Venture Company shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, claim, damage, liability or expense in such proportion as is appropriate to reflect the relative benefits received by the Joint Venture Company or any of its Subsidiaries on the one hand and such Indemnified Party on the other hand or, if such allocation is not permitted by Applicable Law, to reflect not only the relative benefits referred to above but also any other relevant equitable considerations. Any indemnity under this Section 14.2(A) shall be paid solely out of and to the extent of the Joint Venture Company's and its Subsidiaries' assets and shall not be a personal obligation of any Member and in no event will any Member be required or permitted, without the consent of the other Member, to contribute additional capital under Article 2 to enable the Joint Venture Company to satisfy any obligation under this Section 14.2.

(B) The provisions of this Section 14.2 shall survive for a period of two (2) years from the date of dissolution of the Joint Venture Company, *provided* that (1) if at the end of such period there are any actions, proceedings or investigations then pending, an Indemnified Party may so notify the Joint Venture Company and the Members at such time (which notice shall include a brief description of each such action, proceeding or investigation and the liabilities asserted therein) and the provisions of this Section 14.2 shall survive with respect to each such action, proceeding or investigation set forth in such notice (or any related action, proceeding or investigation based upon the same or similar claim) until such date that such action, proceeding or investigation is finally resolved and (2) the obligations of the Joint Venture Company under this Section 14.2 shall be satisfied solely out of Joint Venture Company assets, including the assets of any Subsidiary of the Joint Venture Company.

ARTICLE 15.
GOVERNMENTAL APPROVALS

15.1 Governmental Approvals. In the event that either Member takes any action contemplated by this Agreement that could reasonably be expected to result in an event or transaction, including without limitation (i) the purchase by either Member of an Interest pursuant to Sections 12.4(A), 12.4(B) or 12.5, (ii) the purchase by either Member of a Facility or U.S. Facilities Company that owns or leases such Facility pursuant to any covenants unanimously agreed in writing by the Members, (iii) a Change of Consolidating Member, (iv) the making of a Capital Contribution, (v) the conversion of a Member Note or (vi) the creation or acquisition of interests in a U.S. Facilities Company, which event or transaction, as to each of the foregoing, would require either Member to make a filing, notification or any other required or requested submission under the HSR Act or any other applicable Competition Law (any such event or transaction, a "**Filing Event**" and any such filing, notification, or any such other required or requested submission, a "**Filing**"), then:

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

(B) notwithstanding any provision to the contrary in this Agreement, a Filing Event may not occur or close until after any applicable waiting period (including any extension thereof) under the HSR Act or any other Competition Law, as applicable to such Filing Event, shall have expired or been terminated, and all approvals under antitrust regulatory Filings in any jurisdiction that shall be necessary for such Filing Event to occur or close shall have been obtained, and any applicable deadline for the occurrence or closing of such Filing Event contained in this Agreement shall be delayed, so long as both Members are proceeding diligently in accordance with this Section 15.1 to seek any such expiration, termination or approval, and so long as there are no other outstanding conditions preventing the occurrence or closing of the Filing Event;

(C) the Members shall, and shall cause any of their relevant Affiliates to:

(1) as promptly as practicable, make their respective Filings under the HSR Act or any other applicable Competition Law;

(2) promptly respond to any requests for additional information from the Federal Trade Commission, the Department of Justice or any other Governmental Entity;

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

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

(5) subject to Applicable Laws, use their commercially reasonable efforts to (a) take actions that are necessary to prevent the Federal Trade Commission, the Antitrust Division of the Department of Justice, or any other Governmental Entity, as the case may be, from filing an action with a court or Governmental Entity that, if the Governmental Entity prevailed, would restrict, enjoin, prohibit or otherwise prevent or materially delay the consummation of the Filing Event, including an action by any such Governmental Entity seeking a requirement to (i) sell, license or otherwise dispose of, or hold separate and agree to sell or otherwise dispose of, assets, categories of assets or businesses of either Member, the Joint Venture Company or its respective Subsidiaries; (ii) terminate existing relationships and contractual rights and obligations of either

Member, the Joint Venture Company or its respective Subsidiaries; (iii) terminate any relevant venture or other arrangement; or (iv) effectuate any other change or restructuring of either Member or the Joint Venture Company (as to each of the foregoing, a "**Divestiture Action**"), and (b) contest and resist any action, including any legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any order that restricts, enjoins, prohibits or otherwise prevents or materially delays the occurrence or closing of such Filing Event; and

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

(D) notwithstanding anything to the contrary in this Section 15.1, nothing in this Section 15.1 shall require either Member or its respective Affiliates, or the Joint Venture Company to take any Divestiture Action; and

(E) if the Filing Event is prevented from occurring or closing as a result of any applicable Competition Laws, after exhausting all efforts permitted under this Section 15.1 to obtain the necessary approval of any applicable Governmental Entity, then the Members shall negotiate in good faith to agree upon an alternative event or transaction that would be permissible under applicable Competition Laws, and would approximate, as closely as possible, the intent and contemplated effect of the original Filing Event.

ARTICLE 16.
FORMATION OF ADDITIONAL ENTITIES

16.1 Formation of U.S. Subsidiaries. The Members agree that each Facility located in the United States may be held through a Wholly-Owned Subsidiary of the Joint Venture Company, where such Wholly-Owned Subsidiary is established, organized or incorporated within the United States (each, a "**U.S. Facilities Company**"). Unless the Members agree in writing otherwise, each U.S. Facilities Company shall be owned directly or indirectly by the Joint Venture Company. Each U.S. Facilities Company shall be an entity that may elect, and shall elect, to be treated as a disregarded entity or a partnership for U.S. federal income tax purposes, as appropriate. The Members agree that the charter and other organizational documents of each U.S. Facilities Company and all contractual and other arrangements between the Joint Venture Company and such U.S. Facilities Company, and between the Members and the U.S. Facilities Company, shall have such terms and conditions as shall be necessary to achieve the purposes of the Members in entering into this Agreement and the Joint Venture Documents and to achieve as closely as practicable the same beneficial results (including with respect to Joint Venture Products produced by such U.S. Facilities Company and the pricing thereof; tax matters, financial accounting matters, assets to be distributed, and rights provided, on dissolution and liquidation; profits; losses; distributions; governance; control and the like) for the

Members as would be achieved if the Facility held by such U.S. Facilities Company were held directly by the Joint Venture Company.

16.2 Intentionally Omitted.

ARTICLE 17.
DEADLOCK; OTHER DISPUTE RESOLUTION; EVENT OF DEFAULT

17.1 Deadlock. "**Deadlock**" shall occur with respect to any matter for which an affirmative vote by at least one Manager appointed by each Member is required for approval, and such matter is not approved as a result of a vote in which a majority of the Managers appointed by one Member (or the sole Manager appointed by a Member, if there is only one) have voted against the matter and a majority of the Managers appointed by the other Member (or the sole Manager appointed by the other Member, if there is only one) have voted for the matter other than an Intel Matter or a Micron Matter (a "**Tie Vote**") on a matter submitted to it at a meeting or in the form of a proposed written consent, and during the [***] period following this Tie Vote, the Board of Managers is unable or fails to break the Tie Vote (if the matter is presented in the form of a proposed written consent, the [***] period shall commence on the date that the Manager who was last to receive the proposal received it). During this [***] period, the Board of Managers shall seek in good faith to hold at least [***] ([***]) additional meetings at which it shall make a good faith effort to break the Deadlock. To the extent practicable, the Board of Managers shall seek to resolve the matter in a manner consistent with the Joint Venture Company's then-current Approved Business Plan. The additional meetings shall be held at the time and place agreed to by the Managers, or if the Managers are unable to agree, at a time and place determined by the Authorized Officers, or the Chief Executive Officer, as applicable, on at least two (2) days' written notice.

17.2 Resolution of Deadlock.

(A) If a Deadlock occurs, (i) if the matter is an Intel Matter, the matter shall be resolved in the manner specified by the Authorized Representative of Intel, whose decision shall be final and binding on the Joint Venture Company and its Subsidiaries, (ii) if the matter is a Micron Matter, the matter shall be resolved in the manner specified by the Authorized Representative of Micron, whose decision shall be final and binding on the Joint Venture Company and its Subsidiaries, and (iii) if the matter is neither an Intel Matter nor a Micron Matter, the Joint Venture Company shall (a) first submit the matter that was the subject of the Deadlock to the Authorized Representatives of the Members by providing notice of the Deadlock to the Members, and the Authorized Representatives of the Members shall then make a good faith effort to resolve the dispute and break the Deadlock within [***] of the Members' receiving notice of the Deadlock and (b) next, if the Deadlock is still not resolved, submit the matter to the Senior Authorized Representatives for each of the Members, who shall then make a good faith effort to resolve the Deadlock within [***] of submission to the Senior Authorized Representatives. If the matter remains unresolved, then the Members shall submit the Deadlock to non-binding mediation. Either Member may initiate the non-binding meditation by providing to JAMS and the other Member a written request for mediation, setting forth the subject of the Deadlock. The Members will cooperate with JAMS and with one another in selecting a retired judge from JAMS panel of neutrals, and in scheduling the mediation proceedings. The Members

covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The provisions of this Section 17.2 may be enforced by any court of competent jurisdiction, and the Member seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Member against whom enforcement is ordered.

(B) Notwithstanding the foregoing, if the Board of Managers fails to approve a specific loading plan for a given Fab, then the Members may designate the loading for such Fab in accordance with their respective Sharing Interests.

17.3 Definition of "Intel Matters." For purposes of this Agreement, "**Intel Matter**" means any matter that is unanimously agreed in writing by the Members to be an Intel Matter.

17.4 Definition of "Micron Matters." For purposes of this Agreement, "**Micron Matter**" means any matter that is unanimously agreed in writing by the Members to be a Micron Matter.

17.5 Other Dispute Resolution. In the event of any other dispute over a purported breach of this Agreement (a "**Dispute**"), the Members shall endeavor to settle, through their respective designees to the Board of Managers, the Dispute. All Disputes arising under this Agreement that are not resolved by the Board of Managers shall be resolved as follows: the Joint Venture Company shall first submit the matter to the Authorized Representatives of the Members by providing notice of the Dispute to the Members. The Authorized Representatives of the Members shall then make a good faith effort to resolve the Dispute. If they are unable to resolve the Dispute within [***] of receiving notice of the Dispute, the matter shall then be submitted to the Senior Authorized Representatives of the Members, who shall then make a good faith effort to resolve the Dispute. If the Dispute cannot be resolved within [***] of submission of the matter to the Senior Authorized Representatives of the Members, then a civil action with respect to the Dispute may be commenced, but only after the matter has been submitted to JAMS for mediation as contemplated by Section 17.6.

17.6 Mediation. If there is a Dispute, either Member may commence mediation by providing to JAMS and the other Member a written request for mediation, setting forth the subject of the Dispute and the relief requested. The Members will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in scheduling the mediation proceedings. The Members covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Members, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Members, *provided* that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Member may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither Member may commence a civil action with respect to a Dispute until after the completion of the initial mediation session, or [***] after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the

commencement of a civil action, if the Members so desire. The provisions of this Section may be enforced by any court of competent jurisdiction, and the Member seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Member against whom enforcement is ordered.

17.7 Event of Default.

(A) An "**Event of Default**" shall occur if a Member (the "**Defaulting Member**") fails to perform any material obligation under this Agreement or any of the Joint Venture Documents to which it is a party.

(B) Upon the occurrence of an Event of Default, the Joint Venture Company and the other Member (the "**Non-Defaulting Member**") shall each have the right to deliver to the Defaulting Member notice (a "**Notice of Default**"). The Notice of Default shall set forth the nature of the obligations that the Defaulting Member has failed to perform. If the Defaulting Member fails to cure the Event of Default within the Cure Period, the Non-Defaulting Member may take any of the actions set forth in Section 17.7(C). For purposes hereof, "**Cure Period**" means a period commencing on the date that the Notice of Default is provided by the Non-Defaulting Member or the Joint Venture Company and ending (i) thirty (30) days after Notice of Default is so provided, or (ii) in the case of any obligation (other than an obligation to pay money) which cannot reasonably be cured within such thirty (30) day period, such longer period not to exceed one hundred twenty (120) days after the Notice of Default as is necessary to effect a cure of the Event of Default, so long as the Defaulting Member diligently attempts to effect a cure throughout such period.

(C) Upon the occurrence of an Event of Default and the expiration of the Cure Period set forth in Section 17.7(B), the Non-Defaulting Member may request the Joint Venture Company to pursue all legal and equitable rights and remedies against the Defaulting Member available to it (subject to any limitations in the agreement containing the obligation that was not performed) or may pursue its own legal and equitable rights and remedies against the Defaulting Member (subject to any limitations in the agreement containing the obligation that was not performed); *provided*, *however*, that the Non-Defaulting Member may seek dissolution of the Joint Venture Company under such circumstances only if expressly permitted pursuant to Section 13.1(A)(4). The Defaulting Member shall pay all costs, including attorneys' fees, incurred by the Joint Venture Company and the other Member in pursuing such legal remedies.

17.8 Specific Performance. The Parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the parties agree that any damages available at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate preliminary or permanent injunctive relief may be applied for and granted in connection therewith. Except as otherwise limited by this Agreement, such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a party may have under this Agreement; *provided*, *however*, that in no event shall the dissolution of the Joint Venture Company be permitted unless it is expressly permitted by Section 13.1(A).

17.9 Tax Matters. Notwithstanding anything in this Article 17 to the contrary, the resolution of disputes concerning tax matters governed by Section 10.6(B) shall be governed by Section 10.6(B) of this Agreement.

ARTICLE 18.
MISCELLANEOUS PROVISIONS

18.1 Notices. All notices to the Joint Venture Company shall be sent addressed to the Authorized Officers, or the Chief Executive Officer, as applicable, at the Joint Venture Company's principal place of business. All notices to a Member shall be sent addressed to such Member at the address as may be specified by the Member from time to time in a notice to the Joint Venture Company, *provided* that the initial notice address for each Member is as follows:

(A) if to Intel:

Intel Corporation
2200 Mission College Blvd.
Mailstop SC4-203
Santa Clara, CA 95054
Attention: General Counsel
Facsimile: (408) 653-8050

with a copy to:

Intel Corporation
2200 Mission College Blvd.
Mailstop RN6-46
Santa Clara, CA 95054
Attention: [***]
Facsimile: [***]

(B) if to Micron:

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

All notices to a Manager shall be sent addressed to such Manager at the address as may be specified by the Manager from time to time in a notice to the Joint Venture Company. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

18.2 Waiver. The failure at any time of a Member to require performance by any other Member of any responsibility or obligation required by this Agreement shall in no way affect a

Member's right to require such performance at any time thereafter, nor shall the waiver by a Member of a breach of any provision of this Agreement by any other Member constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

18.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of each party hereto. Except as otherwise specifically provided in this Agreement, neither this Agreement nor any right or obligation hereunder may be assigned or delegated in whole or in part to any other Person.

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

18.5 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

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

18.7 Entire Agreement. This Agreement, together with the Appendices, Exhibits and Schedules hereto and the agreements (including the Confidentiality Agreement) and instruments expressly provided for herein, together with any written agreements entered into contemporaneously with this Agreement, as all of the foregoing may be amended from time to time, constitute the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, among the parties hereto with respect to the subject matter hereof.

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

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

18.10 Further Assurances. Each Member shall execute such deeds, assignments, endorsements, evidences of transfer and other instruments and documents and shall give such further assurances as shall be necessary to perform such Member's obligations hereunder. The

obligations of the Members set forth in this Section 18.10 shall survive the termination of this Agreement.

18.11 Consequential Damages. No party shall be liable to any other party under any legal theory for indirect, special, incidental, consequential or punitive damages, or any damages for loss of profits, revenue or business, even if such party has been advised of the possibility of such damages.

18.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.

18.13 Confidential Information.

(A) The Members shall abide by the terms of that certain Mutual Confidentiality Agreement between Micron, Intel and the Joint Venture Company dated as of the Effective Date, and as may be amended or replaced from time to time (the "**Confidentiality Agreement**"), which agreement is incorporated herein by reference with respect to the Joint Venture Company, its Subsidiaries and the Facilities Companies and the activities of the Joint Venture Company, its Subsidiaries and the Facilities Companies. The Members agree that the Confidentiality Agreement shall govern the confidentiality and non-disclosure obligations between the Members respecting the information provided or disclosed pursuant to this Agreement as such information relates to the Joint Venture Company, its Subsidiaries and the Facilities Companies and their activities.

(B) If the Confidentiality Agreement is terminated or expires and is not replaced, such Confidentiality Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the term of this Agreement or until a new Confidentiality Agreement is entered into between the Members. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

(C) The terms and conditions of this Agreement shall be considered "**Confidential Information**" under the Confidentiality Agreement for which each of Micron and Intel is considered a "Receiving Party" under such Confidentiality Agreement.

18.14 Certain Interpretive Matters.

(A) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each of the Schedules will apply only to the

corresponding Section or subsection of this Agreement, (3) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, except as modified by the definition of "Modified GAAP, " (4) words in the singular include the plural and visa versa, (5) the term "**including**" means "including without limitation," (6) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof, and (7) capitalized terms followed by phrases such as "**under any Applicable Joint Venture Agreement**" or "**pursuant to any Applicable Joint Venture Agreement**" shall have the respective meanings ascribed to such terms under the Applicable Joint Venture Agreement. All references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**$**" or dollar amounts, or "**%**" or percent or percentages, shall be to precise amounts and not rounded up or down. All references to "**day**" or "**days**" will mean calendar days. All references to matters "**unanimously agreed in writing by the Members**" refer to other written agreements that remain effective that were entered into on or prior to the date hereof or written agreements entered into by the Members at some later date.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned being all of the Members of IM Flash Technologies, LLC organized under the Act, have executed this Agreement as of the date and year first above written.

INTEL CORPORATION

By: /s/ Ravi Jacob

Name: Ravi Jacob

Title: Vice President FES, Treasurer

MICRON TECHNOLOGY, INC.

By: /s/ W.G. Stover, Jr.

Name: W.G. Stover, Jr.

Title: V.P. of Finance and CFO

THIS IS THE SIGNATURE PAGE FOR THE
AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF IM FLASH TECHNOLOGIES, LLC
ENTERED INTO BY AND BETWEEN
INTEL CORPORATION AND MICRON TECHNOLOGY, INC.

APPENDIX A

IM FLASH TECHNOLOGIES, LLC

DEFINITIONS

"[***] **Fab**" means a Fab that has [***] construction, Tool Install and equipment and process qualification, including all related facilities necessary to commence production of semiconductor devices and such production output has reached a minimum level of [***]% of its intended high volume output level (as measured in Wafer Starts per week).

"**Accountants**" shall have the meaning set forth in Section 10.4(C) of this Agreement.

"**Accumulated Distributions Account**" shall have the meaning set forth in Section 5.1(C) of this Agreement.

"**Act**" shall have the meaning set forth in Section 1.1 of this Agreement.

"**Additional Capital Contributions**" shall have the meaning set forth in Section 2.3(C) of this Agreement.

"**Adjusted Contribution Amount**" means, after a Change in Consolidating Member, an amount equal to the sum of (i) the Consolidating Member's *Pro Rata* Share of a given Additional Capital Contribution and (ii) the portion of the Former Consolidating Member's *Pro Rata* Share of such Additional Capital Contribution that such Former Consolidating Member is not [***].

"**Affiliate**" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

"**Affiliate Agreements**" shall have the meaning set forth in Section 12.2(B)(1) of this Agreement.

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

"**Annual Budget**" shall have the meaning set forth in Section 11.2(B) of this Agreement.

"**Applicable Fiscal Quarter**" means Micron's first fiscal quarter in its [***] fiscal year.

"**Applicable Joint Venture**" or "**Applicable Joint Ventures**" means the entities listed on Schedule 5, as such Schedule may be amended from time to time by the unanimous written agreement of the Members.

"**Applicable Joint Venture Agreements**" means the agreements listed on Schedule 5, as such Schedule may be amended from time to time by the unanimous written agreement of the Members.

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

"**Appointing Member**" shall have the meaning set forth in Section 6.2(B) of this Agreement.

"**Appraiser**" means two nationally recognized investment banking firms (one to be selected by each Member) and a manufacturing equipment reseller (mutually agreed upon by the two investment banking firms).

"**Approved Business Plan**" means either an Undisputed Approved Business Plan or a Disputed Approved Business Plan, as in effect from time to time.

"**Assembly Plan**" means an assembly plan set forth in the Operating Plan, as more particularly described in Section 11.6(A)(2) of this Agreement.

"**Associated Assets**" means, with respect to any Fab, the Joint Venture Equipment, inventory and other tangible personal property owned by the Joint Venture Company or any of its Subsidiaries and located at that Fab on the date of the Liquidating Event or thereafter and all rights and obligations pursuant to contracts, permits, governmental approvals and governmental concessions and incentives associated with such Fab, Joint Venture Equipment, inventory or other tangible personal property, including all liabilities exclusively associated with such Fab, except for assets sold or disposed of in any of the following transactions that occurs after the Liquidating Event: (a) the sale of inventory in the ordinary course; (b) the sale or other disposition of obsolete or surplus equipment or other assets to third parties in the ordinary course in arm's-length transactions; and (c) the sale of any other asset with the approval of the Board of Managers. Any transfer of Associated Assets under this Agreement shall include the assumption by the transferee of the liabilities exclusively associated with such Fab.

"**Authorized Officers**" means both the Intel Executive Officer and the Micron Executive Officer.

"**Authorized Representative**" means the principal executive officer of either Member or any other individual unanimously agreed in writing by the Members to be an authorized representative of a given Member.

"**Bankruptcy**" shall have the meaning set forth in Section 13.1(B) of this Agreement.

"**Board of Managers**" shall have the meaning set forth in Section 6.1 of this Agreement.

"**Boise Supply Agreement**" means that certain agreement, dated as of the Effective Date, between Micron and the Joint Venture Company to supply products to the Joint Venture Company.

"**Book**" shall have the meaning set forth in Appendix B to this Agreement.

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

"**Buyout Determination Date**" shall have the meaning set forth in Section 13.2 of this Agreement.

"**[***] Value**" means either (a) or (b) below, determined as follows: each Member shall select its own Appraiser and the two Appraisers shall mutually select a third Appraiser. Each Appraiser shall conduct its own independent appraisal to determine the [***] Value, and the average of the two (2) determinations that are the closest in value shall be the [***] Value.

(a) With respect to any Facility or U.S. Facilities Company that owns or leases such Facility ([***], which are provided for in (b) below), the [***] of the applicable Facility or [***] of the applicable U.S. Facilities Company, as the case may be, as of the date [***]. The Appraisers shall be instructed to consider all factors that in their professional opinion may affect [***] of the applicable Facility or U.S. Facilities Company, as the case may be, but in any event [***] Member or the Joint Venture Company.

(b) With respect to [***], or the [***] in the U.S. Facilities Company that [***], the [***] thereof, as of the date [***] (and the Appraisers shall be instructed to consider all factors that in their professional opinion may affect the [***] of the [***] or the [***] in the U.S. Facilities Company that [***]); *provided, however*, that if [***], the [***] Value of the [***], or the [***] in the U.S. Facilities Company that [***], shall be the [***], as of the [***].

"**Cap Amount**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Capital Account**" shall have the meaning set forth in Section 4.1 of this Agreement.

"**Capital Contribution**" means, for each Member, any amount contributed or deemed to be contributed to the Joint Venture Company as a capital contribution, including (without duplication of any capital contribution in clauses (i) - (v)):

(i) the Initial Capital Contribution made by such Member;

(ii) any Additional Capital Contributions (including any contributions made under Section 2.4) made by such Member;

(iii) any portion of a Make-Up Contribution made by such Member equal to the amount of the principal balance of the Member Note repaid with the Make-Up Contribution;

(iv) any other capital contributions made by such Member to the Joint Venture Company as the Members may agree in writing or as provided in the Joint Venture Documents; and

(v) any capital contribution deemed made by such Member upon conversion, contribution or transfer to the Joint Venture Company of a Member Note.

"**Capital Contribution Balance**" means, for each Member, the sum of all Capital Contributions made to the Joint Venture Company by such Member, minus the sum of any capital contributions returned or refunded to such Member pursuant to Article 2 or Article 3. As

of the Effective Date, each Member shall, for purposes of determining its Capital Contribution Balance, receive full credit for its Initial Capital Contribution.

"**Certificate**" shall have the meaning set forth in Section 1.1 of this Agreement.

"**Chairman**" shall have the meaning set forth in Section 6.2(C) of this Agreement.

"**Change in Consolidating Member**" means a change in the Member that is required under GAAP to consolidate the financial results of the Joint Venture Company with its financial results.

"**Chief Executive Officer**" shall have the meaning set forth in Section 8.4 of this Agreement.

"**Chief Financial Officer**" shall have the meaning set forth in Section 8.3(D) of this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Committed Capital**" means, for a Member, on a given date, the sum of (1) the Capital Contribution Balance of such Member through such date and (2) the principal and accrued interest (*provided*, that for purposes of this definition, accrued interest shall be accrued only on the first day of each Fiscal Month) owed to such Member under any Member Debt Financing outstanding on such date.

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

"**Competitively Sensitive Information**" means any information, in whatever form, that has not been made publicly available relating to products and services that a Member sells in competition with the other Member at the execution of this Agreement or thereafter during the Term including, without limitation, NAND Flash Memory Product, to the extent such information of the Member selling such products and services includes price or any element of price, customer terms or conditions of sale, Member-specific costs, volume of sales, output (but not including the Joint Venture Company's output), or bid terms of the foregoing type and such similar information as is specifically identified electronically or in writing to the Joint Venture Company by a Member as competitively sensitive information.

"**Completion**" with respect to a Fab, means the time at which the Fab has successfully completed Process Qualification/Certification and is capable of manufacturing completed semiconductor devices.

"**Confidentiality Agreement**" shall have the meaning set forth in Section 18.13 of this Agreement.

"**Conforming Wafer**" means a NAND Flash Memory Wafer with greater than [***] percent ([***]%) functional die, or that is otherwise accepted by a Member.

"**Consolidating Floor Amount**" shall have the meaning set forth in Section 12.4(B) of this Agreement.

"**Consolidating Member**" means the Member that is required to consolidate the financial results of the Joint Venture Company with its financial results under GAAP.

"**Consolidating Option Percent**" shall have the meaning set forth in Section 12.4(B) of this Agreement.

"**Continuing Mandatory Notes**" shall have the meaning set forth in Section 3.1(E) of this Agreement.

"**Cure Period**" shall have the meaning set forth in Section 17.7(B) of this Agreement.

"**Deadlock**" shall have the meaning set forth in Section 17.1 of this Agreement.

"**Defaulting Member**" shall have the meaning set forth in Section 17.7(A) of this Agreement.

"**DGCL**" means the Delaware General Corporation Law (Del. Code Ann. tit. 8 §§101 et seq.).

"**Dispute**" shall have the meaning set forth in Section 17.5 of this Agreement.

"**Disputed Approved Business Plan**" shall have the meaning set forth in Section 11.2(D)(2) of this Agreement.

"**Distribution Entitlement**" means with respect to any proposed distribution under Section 5.1(A)(4) to a Member, the amount, if any, equal to the Member's Sharing Interest (as such Sharing Interest is determined immediately after any payments made under Sections 5.1(A)(1), (2) and (3)) multiplied by the aggregate, cumulative distributions (not including any payments made pursuant to Sections 5.1(A)(1), (2) and (3) but including the amount to be distributed to such Member in such proposed distribution under Section 5.1(A)(4)).

"**Divestiture Action**" shall have the meaning set forth in Section 15.1(C)(5) of this Agreement.

"**DRAM**" has the meaning set forth in that certain [***] Agreement, dated [***], between Intel and Micron.

"**Economic Interest**" means, for each Member, a percentage determined from time to time by dividing the Committed Capital of such Member at the time of determination by the aggregate Committed Capital of all Members at the time of determination.

"**Effective Date**" shall mean January 6, 2006.

"**Event of Default**" shall have the meaning set forth in Section 17.7(A) of this Agreement.

"**Executive Indemnified Party**" shall have the meaning set forth in Section 14.2(A) of this Agreement.

"**[***] Budget**" shall have the meaning set forth in Section 11.1(B) of this Agreement.

"**[***] Capital Contribution**" shall mean an Additional Capital Contribution of funds required by the Joint Venture Company as set forth in the [***] Budget of the Initial Business Plan, as it may be modified in accordance with Section 11.1(C)(2).

"**Fab**" means a manufacturing facility for manufacturing NAND Flash Memory Wafers and shall include the related automated material handling system (AMHS), process tools, and support tools/fixtures used for manufacturing NAND Flash Memory Wafers in the cleanroom, sub fab and all related laboratories. It also includes all non-clean support equipment and gas and chemical delivery systems required to support the production tools in the Fab.

"**Fab Criteria**" means a Fab capable of producing a minimum of [***] and a maximum of [***] Wafer Starts per week.

"**Facilities Company**" means a U.S. Facilities Company or a Foreign Facilities Company.

"**Facility**" means a Fab and its Associated Assets that are owned or leased by the Joint Venture Company or any of its Subsidiaries.

"**Filing**" shall have the meaning set forth in Section 15.1 of this Agreement.

"**Filing Event**" shall have the meaning set forth in Section 15.1 of this Agreement.

"**Financial Officer**" shall have the meaning set forth in Section 8.3(D) of this Agreement.

"**First Singapore Fab**" means the initial Fab that is, or is to be, located in Singapore and owned or leased by the Singapore Joint Venture Company as contemplated by the Singapore Initial Business Plan existing on the date of the Singapore Agreement.

"**Fiscal Month**" means the fiscal month of the Joint Venture Company as determined by the Board of Managers from time to time, and, initially, the period commensurate with Micron's fiscal month; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Month, the Fiscal Month shall, at such Member's discretion, change to be commensurate with the Fiscal Month of such Member at such time as such Member may thereafter specify.

"**Fiscal Quarter**" means the fiscal quarter of the Joint Venture Company as determined by the Board of Managers from time to time, and, initially, the period commensurate with Micron's fiscal quarter; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Quarter, the Fiscal

Year shall, at such Member's discretion, change to be commensurate with the Fiscal Quarter of such Member at such time as such Member may thereafter specify.

"**Fiscal Year**" means the fiscal year of the Joint Venture Company as determined by the Board of Managers from time to time, and corresponding to the fiscal year of the Member having the greater Percentage Interest, initially, the period commencing as of the Effective Date and ending August 31, 2006 and thereafter a fifty-two (52) or fifty-three (53) week period ending on the Thursday closest to August 31 of each year; *provided* that, if the Member with whom the Joint Venture Company's financial statements are consolidated changes prior to the end of any Fiscal Year, the Fiscal Year shall, at such Member's discretion, change to be commensurate with the Fiscal Year of such Member at such time as such Member may thereafter specify.

"**Flash Memory Integrated Circuit**" means a non-volatile memory integrated circuit that contains memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more transistors that have a floating gate, charge-trapping regions or any other functionally equivalent structure utilizing one or more different charge levels (including binary or multi-level cell structures) with or without any on-chip control, I/O and other support circuitry.

"**Floor Amount**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Foreign Facilities Company**" means a separate legal entity that owns or leases a Facility outside of the United States, the equity of which is owned by the Members or their Relatives.

"**Former Consolidating Member**" means the Member that was required to consolidate the financial results of the Joint Venture Company with its financial results under GAAP immediately prior to a Change in Consolidating Member.

"**Funding Member**" shall have the meaning set forth in Section 3.1(A) of this Agreement.

"**Funding Member Portion**" means that portion of the amount of a Funding Member's Additional Capital Contribution that is deemed to be a loan (rather than a Capital Contribution) as part of a Member Debt Financing, which amount is determined by [***] the Funding Member's [***] of such Additional Capital Contribution (whether or not contributed in full) [***] is the amount actually loaned to the Joint Venture Company by the Funding Member in respect of the Shortfall Amount and the [***] is the Non-Funding Member's [***] of the Additional Capital Contribution.

"**GAAP**" means United States generally accepted accounting principles as in effect from time to time.

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

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Indemnified Party**" shall have the meaning set forth in Section 14.2(A) of this Agreement.

"**Independent Member**" shall have the meaning set forth in Section 6.3(B)(1) of this Agreement.

"**Initial Business Plan**" shall have the meaning set forth in Section 11.1(A) of this Agreement.

"**Initial Capital Contribution**" means the total amount of money or other property initially contributed or agreed to be contributed to the Joint Venture Company by a Member pursuant to Section 2.1, as set forth on Appendix D.

"**Initial Period**" shall have the meaning set forth in Section 11.1(A) of this Agreement.

"**Initial Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Intel**" shall have the meaning set forth in the preamble of this Agreement.

"**Intel Additional Cash**" shall have the meaning set forth on Appendix D.

"**Intel Executive Officer**" shall have the meaning set forth in Section 8.1(A) of this Agreement.

"**Intel Initial Contributed Assets**" means the total amount of money or other property contributed or agreed to be contributed to the Joint Venture Company by Intel as of the Effective Date, as described on Appendix D.

"**Intel Matter**" shall have the meaning set forth in Section 17.3 of this Agreement.

"**Intel Maximum Incremental Capital Amount**" means **$**[***]. Such amount does not include any funds contributed as part of Intel's Initial Capital Contribution.

"**Intel Personnel Secondment Agreement**" means that certain Intel Personnel Secondment Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Intel, as amended.

"**Intel** [***]" has the meaning set forth in that certain [***] Agreement, dated [***], between Intel and Micron.

"**Intellectual Property Rights**" shall have the meaning set forth in Section 10.5(B)(6) of this Agreement.

"**Interest**" means the ownership interest of a Member in the Joint Venture Company, including any and all benefits to which a Member may be entitled under this Agreement and the obligations of a Member under this Agreement, including, without limitation, the right to vote or

to participate in the management of the Joint Venture Company, and the right to information concerning the business and affairs of the Joint Venture Company and its Subsidiaries.

"**Interested Member**" shall have the meaning set forth in Section 6.3(B)(1) of this Agreement.

"**Interested Member Transaction**" shall have the meaning set forth in Section 6.3(B)(2) of this Agreement.

"**Issuance Date**" shall have the meaning set forth in Section 3.1(C) of this Agreement.

"**JAMS**" means Judicial Arbitration and Mediation Services.

"**Joint Development Committee**" shall have the meaning ascribed to such term in the Joint Development Program Agreement, dated as of the Effective Date, between Micron and Intel.

"**Joint Venture Company**" shall have the meaning set forth in preamble of this Agreement.

"**Joint Venture Documents**" shall have the meaning ascribed to such term in the Master Agreement.

"**Joint Venture Equipment**" means all of the personal property, equipment and tangible assets owned by the Joint Venture Company or any of its Subsidiaries.

"**Joint Venture Products**" means all NAND Flash Memory Products and any other memory products that the Joint Venture Company and its Subsidiaries shall produce.

"**Joint Venture Reportable Event**" shall have the meaning set forth in Section 10.5(B) of this Agreement.

"**Lead Controller**" shall have the meaning set forth in Section 8.3(A) of this Agreement.

"**Lehi Fab**" means the Fab to be built out by the Joint Venture Company or one of its Subsidiaries at Lehi, Utah.

"**Lehi Lease**" shall have the meaning ascribed to such term in the Master Agreement.

"**Lehi Property**" means the Lehi Contributed Property (as defined in the Lehi Lease) and all personal property, equipment and other tangible assets that are conveyed to the Joint Venture Company pursuant to the Lehi Bill of Conveyance.

"**[***]**" means the [***] in effect from time to time (as reported in the [***]).

"**Liquidating Event**" shall have the meaning set forth in Section 13.1(A) of this Agreement.

"**Liquidation Date**" shall have the meaning set forth in Section 13.13(A) of this Agreement.

"**Loan Amount**" means [***] (1) the [***] of (a) the Non-Funding Member's full *Pro Rata Share* of an Additional Capital Contribution, [***] (b) a [***] is the amount of the Additional Capital Contribution actually contributed by the Funding Member and the [***] is the Funding Member's [***] of such Additional Capital Contribution and (2) the amount of such Additional Capital Contribution actually contributed by the Non-Funding Member.

"**Majority Member**" shall have the meaning set forth in Section 12.5(A) of this Agreement.

"**Make-Up Contribution**" means a Capital Contribution made by a Non-Funding Member in respect of a Shortfall Amount (but not including any interest thereon).

"**Management Conversion Date**" shall have the meaning set forth in Section 8.1(A) of this Agreement.

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

"**Mandatory Equalization Note**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Mandatory Member Debt Financing**" means Member Debt Financing made in accordance with Section 3.1 of this Agreement.

"**Mandatory Notes**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Mandatory Shortfall Note**" shall have the meaning set forth in Section 3.1(B) of this Agreement.

"**Manufacturing Committee**" means a manufacturing committee established by the unanimous written agreement of the Members.

"**Manufacturing Plan**" means a manufacturing plan set forth in the Operating Plan, as described more particularly in Section 11.6(A)(1) of this Agreement.

"**Master Agreement**" means that certain Master Agreement, by and between Intel and Micron, dated as of November 18, 2005.

"**Maximum Incremental Capital Amount**" means **$**[***]. Such amount does not include any funds contributed as Initial Capital Contributions.

"**Member**" or "**Members**" shall have the meaning set forth in the preamble of this Agreement.

"**Member Business Plan**" shall have the meaning set forth in Section 11.2(D)(2) of this Agreement.

"**Member Change of Control**" means (i) any consolidation, merger, recapitalization, liquidation or other extraordinary transaction involving a Member pursuant to which such Member's stockholders immediately prior to such consolidation, merger, recapitalization, liquidation or other extraordinary transaction own, immediately after such consolidation, merger, recapitalization, liquidation or other extraordinary transaction securities representing less than 50% of the combined voting power of all voting securities of the surviving entity; (ii) any transaction or series of related transactions as a result of which securities representing 50% or more of the combined voting power of all voting securities of such Member are sold, conveyed, transferred, assigned or pledged, either directly or indirectly, to persons other than such Member's stockholders immediately prior to such transaction or series of transactions; or (iii) the sale, conveyance, transfer or assignment, either directly or indirectly, of all or substantially all of the assets of such Member, in one transaction or a series of related transactions, to a person that does not control, is not controlled by and is not under common control with such Member.

"**Member Debt Financing**" as of any date shall mean all loans to the Joint Venture Company under Article 3 of this Agreement.

"**Member [***] Budget**" shall have the meaning set forth in Section 11.1(C)(2)(a)(ii) of this Agreement.

"**Member [***] Budget**" shall have the meaning set forth in Section 11.1(C)(2)(b)(ii) of this Agreement.

"**Member Notes**" means any promissory notes issued under Article 3 of this Agreement, including a Mandatory Shortfall Note, Mandatory Equalization Note, Continuing Mandatory Note, Optional [***] Shortfall Note, Optional [***] Equalization Note or Optional Other Shortfall Note outstanding pursuant to the terms of this Agreement.

"**Member Plan Amendment**" shall have the meaning set forth in Section 11.2(E)(4) of this Agreement.

"**Member Reportable Events**" shall have the meaning set forth in Section 10.5(A) of this Agreement.

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

"**Micron Additional Cash**" shall have the meaning set forth on Appendix D.

"**Micron Executive Officer**" shall have the meaning set forth in Section 8.2(A) of this Agreement.

"**Micron Initial Contributed Assets**" means the total amount of money or other property contributed or agreed to be contributed to the Joint Venture Company by Micron as of the Effective Date, as described on Appendix D.

"**Micron Matter**" shall have the meaning set forth in Section 17.4 of this Agreement.

"**Micron Maximum Incremental Capital Amount**" means $1,457,904,917. Such amount does not include any funds contributed as part of Micron's Initial Capital Contribution.

"**Micron Minority Closing**" shall have the meaning set forth in Section 12.5(C)(1) of this Agreement.

"**Micron** [***] **Purchase Option**" means any covenant unanimously agreed in writing by the Members that grants Micron the right to purchase the [***] or the [***] of the U.S. Facilities Company that [***].

"**Micron Personnel Secondment Agreement**" means that certain Micron Personnel Secondment Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Micron, as amended.

"**Minority Closing**" shall have the meaning set forth in Section 12.5(A) of this Agreement.

"**Minority Closing Price**" shall have the meaning set forth in Section 12.5(B) of this Agreement.

"**Minority Member**" shall have the meaning sent forth in Section 12.5(A) of this Agreement.

"**Model of Record**" or "**MOR**" means a representation of the POR and TOR for use in determining the number of tools required to produce a specific number of semiconductor wafers. The MOR includes assumptions used to model overall tool throughput and productivity as well as assumptions on process yield.

"**Modified GAAP**" means United States generally accepted accounting principles as in effect from time to time, except that: (i) stock-related expenses (including stock options, restricted stock, stock appreciation rights, restricted stock units, stock purchase programs or any award based on equity of Micron or Intel) associated with the seconded individuals to the Joint Venture Company will not be recorded or disclosed in the financial statements of the Joint Venture Company; and (ii) the value of any asset contributed or otherwise transferred to the Joint Venture Company from a Member shall be the value as agreed upon by the Members at the time of the contribution or transfer, as applicable, and, if such asset is to be depreciated or amortized under GAAP, the useful life and method of depreciation or amortization for such assets shall be determined by applying the accounting policies used by the Joint Venture Company for like assets. The value of the [***], the [***] and the [***] shall be the value specified with respect to such items in Appendix D.

"**Monthly Flash Report**" means operating performance metrics reasonably acceptable to each Member for the most recent month.

"**Monthly Operating Report**" shall have the meaning set forth in Section 11.6(A)(4) of this Agreement.

"**MTV Assets**" means the Associated Assets at the Fab located at the [***].

"**MTV Lease**" shall have the meaning ascribed to such term in the Master Agreement.

"**NAND Flash Memory Die**" means a discrete integrated circuit die, wherein such die includes at least one NAND Flash Memory Integrated Circuit and such die is designed, developed, marketed and used primarily as a non-volatile memory die.

"**NAND Flash Memory Die Package**" means a discrete integrated circuit package for a NAND Flash Memory Die, including TSOP, COB, BOC, BGA and FBGA or other type package, wherein such package contains only one or more NAND Flash Memory Die but no other die.

"**NAND Flash Memory Integrated Circuit**" means a Flash Memory Integrated Circuit wherein the memory cells included in the Flash Memory Integrated Circuit are arranged in groups of serially connected memory cells (each such group of serially connected memory cells called a "string") in which the drain of each memory cell of a string (other than the first memory cell in the string) is connected in series to the source of another memory cell in such string, the gate of each memory cell in such string is directly accessible, and the drain of the uppermost bit of such string is coupled to the bitline of the memory array.

"**NAND Flash Memory Product**" means any NAND Flash Memory Wafer, NAND Flash Memory Die or NAND Flash Memory Die Package.

"**NAND Flash Memory Wafer**" means a prime wafer that has been processed to the point of containing multiple NAND Flash Memory Die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor die.

"**Net Book Value**" means, with respect to (i) any assets, the value thereof, net of accumulated depreciation, amortization and other adjustments, as would be included in a consolidated balance sheet of the entity owning such assets prepared in accordance with Modified GAAP, (ii) any liabilities, the amount thereof as would be included in a consolidated balance sheet of the entity having the liabilities prepared in accordance with Modified GAAP and (iii) any equity security of a U.S. Facilities Company or other entity, (a) the value of the assets of such entity, net of accumulated depreciation, amortization or other adjustments, as would be included in a consolidated balance sheet of the entity prepared in accordance with Modified GAAP, minus the amount of the liabilities of such entity, as would be included in a consolidated balance sheet of such entity prepared in accordance with Modified GAAP, multiplied by (b) a percentage equal to the percentage of the equity of such entity represented by such equity security.

"**[***]**" means any Fab that is, or is to be, owned or leased by the Joint Venture Company, any of its Subsidiaries or any Facilities Company other than the [***].

"**[***] Budget**" shall have the meaning set forth in Section 11.1(B).

"**[***] Capital Contribution**" shall mean any Additional Capital Contribution to be made by the Members, as contemplated by an Approved Business Plan, to make [***] an Operational Fab, but only in the event that the [***] for [***] is reasonably expected to begin before [***].

"[***]" means the first Fab that is, or is to be, owned or leased by the Joint Venture Company, any of its Subsidiaries or any Facilities Company other than [***].

"**Non-Defaulting Member**" shall have the meaning set forth in Section 17.7 of this Agreement.

"**Non-Funding Member**" shall be the Member that is determined not to be the Funding Member in accordance with Section 3.1(A) of this Agreement.

"**Notice of Default**" shall have the meaning set forth in Section 17.7(B) of this Agreement.

"**Operating Plan**" shall have the meaning set forth in Section 11.6(A) of this Agreement

"**Operational Fab**" means a Fab that has completed construction, Tool Install and equipment and process qualification, including all related facilities necessary to commence production of semiconductor devices and such production output has reached a minimum level of [***]% of its intended high volume output level (as measured in [***]).

"**Option Percent**" shall have the meaning set forth in Section 12.4(A) of this Agreement.

"**Option Price**" shall have the meaning set forth in Section 12.5(B) of this Agreement.

"**Optional [***] Equalization Note**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional [***] Financing**" shall have the meaning set forth in Section 3.2(A) of this Agreement.

"**Optional [***] Loan Amount**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional [***] Notes**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional [***] Shortfall Note**" shall have the meaning set forth in Section 3.2(B) of this Agreement.

"**Optional Other Financing**" shall have the meaning set forth in Section 3.3(A) of this Agreement.

"**Optional Other Shortfall Note**" shall have the meaning set forth in Section 3.3(B) of this Agreement.

"**Original Agreement**" shall have the meaning set forth in Recital A of this Agreement.

"**Other Capital Contributions**" shall have the meaning set forth in Section 2.3(C) of this Agreement.

"**Percentage Interest**" means, at any time of determination, with respect to any Member, a percentage determined by dividing such Member's Capital Contribution Balance at the time of determination by the aggregate Capital Contribution Balances of all Members at the time of determination.

"**Person**" or "**Persons**" means any natural person and any corporation, firm, partnership, trust, estate, limited liability company, or other entity resulting from any form of association.

"**Premises**" shall have the meaning ascribed to such term in the [***].

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

"**Process of Record**" or "**POR**" means documents and/or systems that specify a series of operations that a semiconductor wafer must process through. The POR includes the process recipes and parameters at each operation for the specified Tool of Record.

"**Product**" shall have the meaning set forth in the Supply Agreements.

"**Product Design Committee**" shall have the meaning set forth in the Product Design Committee Agreement.

"**Product Design Committee Agreement**" shall mean the Product Design Committee Agreement, dated as of the Effective Date, by and between Micron and Intel, as amended.

"**Product Design Roadmap**" shall have the meaning set forth in the Product Design Committee Agreement.

"**Proposed Business Plan**" shall have the meaning set forth in Section 11.2(A) of this Agreement.

"***Pro Rata* Share**" means the *pro rata* share of a Member determined in accordance with the Members' respective Percentage Interests at the time of the determination.

"**Purchase Value**" means an amount equal to the [***] value to Micron of the right to purchase under the terms of the Supply Agreement - Micron the output of the Joint Venture Product that will be shifted from Micron to Intel as a result of the adjustment in the Sharing Interests of the Members following the exercise of the purchase right (and the resulting shift in the Members' Capital Contribution Balances) provided for in either Section 12.4(A) or Section 12.4(B), such [***]value to be determined by a nationally recognized investment bank that is mutually agreeable to the Members.

"**Relative**" or "**Relatives**" means, with respect to each Member, the entities listed as such Member's Relatives on Schedule 6, as such Schedule may be amended from to time by (i) the unanimous agreement in writing of the Members or (ii) as necessary to reflect any transferee in a

Transfer under any Applicable Joint Venture Agreement permitted by and in accordance with Section 12.2 of any of the Applicable Joint Venture Agreement.

"**Remaining Assets**" shall have the meaning set forth in Section 13.11 of this Agreement.

"**Renewal Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Representative**" shall have the meaning set forth in Section 8.7(D) of this Agreement.

"**Seconded Employees**" shall have the meaning set forth in Section 9.1 of this Agreement.

"**Senior Authorized Representative**" means any individual unanimously agreed in writing by the Members to be a senior authorized representative of a given Member.

"**Service Provider Related Forms**" shall have the meaning set forth in Section 9.3(A) of this Agreement.

"**Sharing Interest**" means, with respect to any Member, the percentage determined by dividing (1) such Member's Committed Capital at the time of determination, by (2) the aggregate Committed Capital of all Members at the time of determination; *provided*, *however*, that, for purposes of this definition only, Committed Capital shall be adjusted as follows:

(a) [***]% of any [***] Capital Contribution that has been made by such Member, but that was not timely made, shall be deducted from that Member's Committed Capital and added to the other Member's Committed Capital;

(b) any [***] Capital Contribution made, and any loans made or deemed made that are represented by Mandatory Notes, within the twelve months prior to the time of determination shall be deducted from Committed Capital; and

(c) any Other Capital Contributions made, and any loans made or deemed made that are represented by Optional Other Shortfall Notes shall be deducted from Committed Capital, but the exclusion under this subparagraph (c) shall apply only to such Capital Contributions and such loans made within (i) the [***] prior to the time of determination if the Capital Contribution or loan related to [***] Fab, other than the [***], that was not a [***] at the time the contribution was due or (ii) the [***] prior to the time of determination if the Other Capital Contribution made, or loan made or deemed made that is represented by an Optional Other Shortfall Notes relates to any operating expenditure, capital expenditure or other expenditure not subject to the [***] period in the immediately preceding clause (i) and *provided*, *further, however*, that a Make-Up Contribution shall be deemed made on the date on which the related Shortfall Amount first arose, so that the applicable [***] and [***] periods shall apply from the date the Shortfall Amount occurred. Notwithstanding the foregoing, subparagraphs (b) and (c) of this definition shall not apply with respect to any use

of the term "Sharing Interests" in connection with a distribution under Section 13.13(C)(4) of this Agreement.

"**Shortfall Amount**" means any uncontributed dollar amount of any Member's [***] of an Additional Capital Contribution.

"**Singapore Joint Venture Company**" means IM Flash Singapore, LLP, a limited liability partnership organized under the laws of Singapore.

"**Subsidiary**" means as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"**Supply Agreement - Intel**" means that certain Supply Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Intel, as amended.

"**Supply Agreement - Micron**" means that certain Supply Agreement, dated as of the Effective Date, by and between the Joint Venture Company and Micron, as amended.

"**Supply Agreements**" means the Supply Agreement - Intel and the Supply Agreement - Micron.

"**Tax Matters Partner**" shall have the meaning set forth in Section 10.7 of this Agreement.

"**Technology Committees**" means the Product Design Committee and the Joint Development Committee.

"**Term**" shall have the meaning set forth in Section 1.3 of this Agreement.

"**Testing Plan**" means a testing plan set forth in the Operating Plan, as more particularly described in Section 11.6(A)(3) of this Agreement.

"**Tie Vote**" shall have the meaning set forth in Section 17.1 of this Agreement.

"**Tool Install**" means the installation of the automated material handling system (AMHS), process tools, and support tools/fixtures used for semiconductor manufacturing (including sort) in the cleanroom and in all related laboratories in the Fab.

"**Tool of Record**" or "**TOR**" means the specified tool required to modify, handle, or otherwise fulfill its intended purpose in the manufacture of a semiconductor process pursuant to the POR. The TOR encompasses the tool purchase price, configuration and associated documentation required to procure, conduct acceptance testing and administer service contracts.

"**TOP**" shall have the meaning set forth in Section 9.4(B) of this Agreement.

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

"**Treasury Regulation**" shall have the meaning set forth in Section 1.1 of Appendix B to this Agreement.

"**Unamortized MTV Lease Value**" means for purposes of [***], an [***] to (i) the [***] of the [***], based on [***], assuming that such value were amortized on a [***] beginning on [***], with respect to [***] to the [***], (ii) [***] with respect to a [***], (iii) [***] with respect to [***], and (iv) [***] with respect to [***].

"**Undisputed Approved Business Plan**" shall have the meaning set forth in Section 11.2(D)(1) of this Agreement. The Initial Business Plan approved by the Members shall be deemed to be an Undisputed Approved Business Plan.

"**U.S. Facilities Company**" shall have the meaning set forth in Section 16.1 of this Agreement.

"**Wafer**" means a silicon wafer.

"**Wafer Start**" means the initial Wafer introduction to a process flow. When the context requires reference to a quantity of "Wafer Starts," such term shall be expressed in 300 millimeter diameter equivalents.

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

APPENDIX B

IM FLASH TECHNOLOGIES, LLC

TAX MATTERS

This Appendix B is attached to and is a part of the AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT (the "**Agreement**") of IM FLASH TECHNOLOGIES, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), dated as of this 27th day of February, 2007. The parties to the Agreement intend that the Joint Venture Company be classified as a partnership for federal income tax purposes pursuant to section 7701(a)(2) of the Code and the regulations thereunder. The provisions of this Appendix are intended to effect an allocation of tax items of the Joint Venture Company that are in accordance with the Members' "interests in the partnership" (i.e., the Joint Venture Company) within the meaning of Treas. Reg. § 1.704-1(b)(3) by utilizing the principles of allocation contained in Treas. Reg. § 1.704-1(b)(2)(iv) and Treas. Reg. § 1.704-2 with respect to maintenance of capital accounts and allocations, and shall be interpreted and applied accordingly. For purposes of applying the provisions of this Appendix, it shall be assumed that the Joint Venture Company satisfies the requirements of Treas. Reg. § 1.704-1(b)(2)(ii)(b)(2) and (3), notwithstanding that the Joint Venture Company does not satisfy such requirements.

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. For purposes of this Appendix, the capitalized terms listed below shall have the meanings indicated. Capitalized terms not listed below and not otherwise defined in this Appendix shall have the meanings specified in the Agreement.

"**Account Reduction Item**" means (i) any adjustment described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(4); (ii) any allocation described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(5), other than a Nonrecourse Deduction or a Member Nonrecourse Deduction; or (iii) any distribution described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(6).

"**Adjusted Capital Account Balance**" means, as of any date, a Member's Capital Account balance as of such date (and if such date is other than the last day of the taxable year of the Joint Venture Company, determined as if the taxable year of the Joint Venture Company ended on such date), taking into account all contributions made by such Member and distributions made to such Member during such taxable year and any special allocations or other adjustments required by Sections 3.2, 3.3, 3.4(A), (B), and (D), 3.5, 3.6 and 3.7, and 5.2(B) and 5.9 of this Appendix, and increased by the sum of (i) such Member's share of Joint Venture Company Minimum Gain and (ii) such Member's share of Member Nonrecourse Debt Minimum Gain, both determined after taking into account any such special allocations and other adjustments.

"**Adjusted Fair Market Value**" of an item of Joint Venture Company property means the greater of (i) the fair market value of such property as reasonably determined by the Board of

Managers (provided, that in the case of any sale of Joint Venture Company property, such amount shall be presumed to be the sales price realized by the Joint Venture Company on such sale) or (ii) the amount of any nonrecourse indebtedness to which such property is subject within the meaning of section 7701(g) of the Code.

"**Book**" means the method of accounting prescribed for compliance with the capital account maintenance rules set forth in Treas. Reg. § 1.704-1(b)(2)(iv) as reflected in Articles 1 and 2 of this Appendix, as distinguished from any accounting method which the Joint Venture Company may adopt for other purposes such as financial reporting.

"**Book Value**" means, with respect to any item of Joint Venture Company property, the book value of such property within the meaning of Treas. Reg. § 1.704-1(b)(2)(iv)(g)(3); *provided*, *however*, that if the Joint Venture Company adopts the remedial allocation method described in Treas. Reg. § 1.704-3(d) with respect to any item of Joint Venture Company property, the Book Value of such property shall be its book basis determined in accordance with Treas. Reg. § 1.704-3(d)(2).

"**Deemed Liquidation**" means a liquidation of the Joint Venture Company that is deemed to occur pursuant to Treas. Reg. § 1.708-1(b)(1)(iv) in the event of a termination of the Joint Venture Company pursuant to section 708(b)(1)(B) of the Code.

"**Excess Deficit Balance**" means the amount, if any, by which the balance in a Member's Capital Account as of the end of the relevant taxable year is more negative than the amount, if any, of such negative balance that such Member is treated as obligated to restore to the Joint Venture Company pursuant to Treas. Reg. § 1.704-1(b)(2)(ii)(c), Treas. Reg. § 1.704-1(b)(2)(ii)(h), Treas. Reg. § 1.704-2(g)(1), and Treas. Reg. § 1.704-2(i)(5). Solely for purposes of computing a Member's Excess Deficit Balance, such Member's Capital Account shall be reduced by the amount of any Account Reduction Items that are reasonably expected as of the end of such taxable year.

"**Excess Nonrecourse Liabilities**" means excess nonrecourse liabilities within the meaning of Treas. Reg. § 1.752-3(a)(3).

"**Joint Venture Company Minimum Gain**" means partnership minimum gain determined pursuant to Treas. Reg. § 1.704-2(d) and Section 5.3 of this Appendix.

"**Member Nonrecourse Debt**" means any "partner nonrecourse debt" as such term is defined in Treas. Reg. § 1.704-2(b)(4).

"**Member Nonrecourse Debt Minimum Gain**" means minimum gain attributable to Member Nonrecourse Debt pursuant to Treas. Reg. § 1.704-2(i)(3).

"**Member Nonrecourse Deduction**" means any item of Book loss or deduction that is a partner nonrecourse deduction within the meaning of Treas. Reg. § 1.704-2(i)(1) and (2).

"**Member Nonrecourse Distribution**" means a distribution to a Member that is allocable to a net increase in such Member's share of Member Nonrecourse Debt Minimum Gain pursuant to Treas. Reg. § 1.704-2(i)(6).

"**Nonrecourse Deduction**" means a nonrecourse deduction determined pursuant to Treas. Reg. § 1.704-2(b)(1) and Treas. Reg. § 1.704-2(c).

"**Nonrecourse Distribution**" means a distribution to a Member that is allocable to a net increase in Joint Venture Company Minimum Gain pursuant to Treas. Reg. § 1.704-2(h)(1).

"**Regulatory Allocation**" means any allocation made pursuant to Section 3.2, 3.3, 3.4 or 3.5 of this Appendix.

"**Related Person**" means, with respect to a Member, a Person that is related to such Member pursuant to Treas. Reg. § 1.752-4(b).

"**Revaluation Event**" means (i) a liquidation of the Joint Venture Company (within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g) but not including a Deemed Liquidation); (ii) a contribution of more than a de minimis amount of money or other property to the Joint Venture Company by a Member or a distribution of more than a de minimis amount of money or other property to a retiring or continuing Member where such contribution or distribution alters the Sharing Interest of any Member; or (iii) the grant of an interest in the Joint Venture Company as consideration for the provision of services to or for the benefit of the Joint Venture Company.

"**Section 705(a)(2)(B) Expenditures**" means nondeductible expenditures of the Joint Venture Company that are described in section 705(a)(2)(B) of the Code, and organization and syndication expenditures and disallowed losses to the extent that such expenditures or losses are treated as expenditures described in section 705(a)(2)(B) of the Code pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(i).

"**Section 751 Property**" means unrealized receivables and substantially appreciated inventory items within the meaning of Treas. Reg. § 1.751-1(a)(1).

"**Target Balance**" means, for any Member as of any date, the amount that would be distributable to such Member on such date pursuant to Section 5.1 of the Agreement if (i) all the assets of the Company were sold for cash equal to their respective Book Values as of such date, (ii) all liabilities of the Company (other than any liabilities under outstanding Member Notes) were paid in full (except that in the case of a nonrecourse liability, such payment would be limited to the Book Value of the asset or assets securing such liability), and (iii) all remaining cash were distributed to the Members pursuant to Section 5.1 (assuming, for this purpose, that the holders of any Member Notes have converted such Member Notes immediately prior to such distribution).

"**Tax Basis**" means, with respect to any item of Joint Venture Company property, the adjusted basis of such property as determined in accordance with the Code.

"**Treasury Regulation**" or "**Treas. Reg.**" means the temporary or final regulation(s) promulgated pursuant to the Code by the U.S. Department of the Treasury, as amended, and any successor regulation(s).

ARTICLE 2
CAPITAL ACCOUNTS

2.1 **Maintenance**.

(A) A single Capital Account shall be maintained for each Member in accordance with this Article 2.

(B) Each Member's Capital Account shall from time to time be increased by:

(i) the amount of money contributed by such Member to the Joint Venture Company in accordance with the Agreement (including the amount of any Joint Venture Company liabilities which the Member is deemed to assume as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(c), and including the principal amount paid for any Member Notes, but excluding liabilities assumed in connection with the distribution of Joint Venture Company property and excluding increases in such Member's share of Joint Venture Company liabilities pursuant to section 752 of the Code);

(ii) the fair market value of property, as reasonably determined by the Board of Managers, contributed by such Member to the Joint Venture Company (net of any liabilities secured by such property that the Joint Venture Company is considered to assume or take subject to pursuant to section 752 of the Code); *provided*, that for this purpose the fair market value of (A) the Lehi Property contributed by Micron (net of liabilities) is equal to the value set forth with respect thereto on Appendix D (it being understood that the [***]shall not be treated as property for purposes of this clause (ii)), and (B) the amount credited to the Capital Account of a Member with respect to any Capital Contribution taking the form of a contribution of a promissory note shall equal the principal payments made by such Member with respect to such promissory note; and, *provided*, *further*, that nothing in this Appendix B shall be deemed to increase or limit the amount treated as a Capital Contribution for purposes other than this Appendix B;

(iii) the amount recognized as gross income by Micron with respect to the [***]as described in Section 5.10 of this Appendix; and

(iv) allocations to such Member of Joint Venture Company Book income and gain (or the amount of any item or items of income or gain included therein).

(C) Each Member's Capital Account shall from time to time be reduced by:

(i) the amount of money distributed to such Member by the Joint Venture Company (including the amount of such Member's individual liabilities which the Joint Venture Company is deemed to assume as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(c)), including the amount of any amount

paid or accrued on any Member Note that is not treated as a guaranteed payment pursuant to Section 5.2 of this Appendix B;

(ii) the fair market value, as reasonably determined by the Board of Managers, of property distributed to such Member by the Joint Venture Company (net of any liabilities secured by such property that such Member is considered to assume or take subject to pursuant to section 752 of the Code); and

(iii) allocations to such Member of Joint Venture Company Book loss and deduction (or items thereof);

(D) The Joint Venture Company shall make such other adjustments to the Capital Accounts of the Members as are necessary to comply with the provisions of Treas. Reg. § 1.704-1(b)(2)(iv).

2.2 **Revaluation of Joint Venture Company Property**.

(A) Upon the occurrence of a Revaluation Event, the Board of Managers may revalue all Joint Venture Company property (whether tangible or intangible) for Book purposes to reflect the Adjusted Fair Market Value of Joint Venture Company property immediately prior to the Revaluation Event. In the event that Joint Venture Company property is so revalued, the Capital Accounts of the Members shall be adjusted in accordance with Treas. Reg. § 1.704-1(b)(2)(iv)(f) as provided in Section 3.1 of this Appendix.

(B) Upon the distribution of Joint Venture Company property to a Member, the property to be distributed shall be revalued for Book purposes to reflect the Adjusted Fair Market Value of such property immediately prior to such distribution, and the Capital Accounts of all Members shall be adjusted in accordance with Treas. Reg. § 1.704-1(b)(2)(iv)(e).

2.3 **Transfers of Interests**. Upon the transfer of a Member's entire interest in the Joint Venture Company in accordance with Section 12.2 of the Agreement, the Capital Account of such Member shall carry over to the transferee.

ARTICLE 3
ALLOCATION OF BOOK INCOME AND LOSS

3.1 **Book Income And Loss**.

(A) The Book income or loss of the Joint Venture Company for purposes of determining allocations to the Capital Accounts of the Members shall be determined in the same manner as the determination of the Joint Venture Company's taxable income, except that (i) items that are required by section 703(a)(1) of the Code to be separately stated shall be included; (ii) items of income that are exempt from inclusion in gross income for federal income tax purposes shall be treated as Book income; (iii) Section 705(a)(2)(B) Expenditures shall be treated as deductions; (iv) items of gain, loss, depreciation, amortization, or depletion that would be computed for federal income tax purposes by reference to the Tax Basis of an item of Joint Venture Company property shall be determined by reference to the Book Value of such item of

property in accordance with Section 3.1(B) hereof; and (v) the effects of upward and downward revaluations of Joint Venture Company property pursuant to Section 2.2 of this Appendix shall be treated as Book gain or loss respectively from the sale of such property.

(B) In the event that the Book Value of any item of Joint Venture Company property differs from its Tax Basis, the amount of Book depreciation, depletion, or amortization for a period with respect to such property shall be computed so as to bear the same relationship to the Book Value of such property as the depreciation, depletion, or amortization computed for tax purposes with respect to such property for such period bears to the Tax Basis of such property. If the Tax Basis of such property is zero, the Book depreciation, depletion, or amortization with respect to such property shall be computed by using a method consistent with the method that would be used for tax purposes if the Tax Basis of such property were greater than zero and the property were placed in service on the date it is acquired by the Joint Venture Company.

(C) The Book income and loss of the Joint Venture Company for any taxable year shall be allocated in such a manner as to cause the Adjusted Capital Account Balances of the Members as nearly as possible to equal their respective Target Balances as of the end of such taxable year.

3.2 **Allocation of Nonrecourse Deductions**. Notwithstanding any other provisions of the Agreement, Nonrecourse Deductions shall be allocated among the Members in proportion to their respective Sharing Interests as of the end of the taxable year in which such deductions arise.

3.3 **Allocation of Member Nonrecourse Deductions**. Notwithstanding any other provisions of the Agreement, any item of Member Nonrecourse Deduction with respect to a Member Nonrecourse Debt shall be allocated to the Member or Members who bear the economic risk loss for such Member Nonrecourse Debt in accordance with Treas. Reg. § 1.704-2(i).

3.4 **Chargebacks of Income And Gain**. Notwithstanding any other provisions of the Agreement:

(A) Joint Venture Company Minimum Gain. In the event that there is a net decrease in Joint Venture Company Minimum Gain for a taxable year of the Joint Venture Company, then before any other allocations are made for such taxable year, each Member shall be allocated items of Book income and gain for such year (and, if necessary, for subsequent years) to the extent provided by Treas. Reg. § 1.704-2(f).

(B) Member Nonrecourse Debt Minimum Gain. In the event that there is a net decrease in Member Nonrecourse Debt Minimum Gain for a taxable year of the Joint Venture Company, then after taking into account allocations pursuant to paragraph (a) immediately preceding, but before any other allocations are made for such taxable year, each Member with a share of Member Nonrecourse Debt Minimum Gain at the beginning of such year shall be allocated items of Book income and gain for such year (and, if necessary, for subsequent years) to the extent provided by Treas. Reg. § 1.704-2(i)(4).

(C) [Reserved.]

(D) Qualified Income Offset. In the event that any Member unexpectedly receives any Account Reduction Item that results in an Excess Deficit Balance at the end of any taxable year after taking into account all other allocations and adjustments under this Agreement , then items of Book income and gain for such year (and, if necessary, for subsequent years) will be reallocated to each such Member in the amount and in the proportions needed to eliminate such Excess Deficit Balance as quickly as possible.

3.5 **Reallocation To Avoid Excess Deficit Balances**. Notwithstanding any other provisions of the Agreement, no Book loss or deduction shall be allocated to any Member to the extent that such allocation would cause or increase an Excess Deficit Balance in the Capital Account of such Member. Such Book loss or deduction shall be reallocated away from such Member and to the other Members in accordance with the Agreement, but only to the extent that such reallocation would not cause or increase Excess Deficit Balances in the Capital Accounts of such other Members.

3.6 **Corrective Allocation**. Subject to the provisions of Sections 3.2, 3.3, 3.4, and 3.5 of this Appendix, but notwithstanding any other provision of the Agreement, in the event that any Regulatory Allocation is made pursuant to this Appendix for any taxable year, then remaining Book items for such year (and, if necessary, Book items for subsequent years) shall be allocated or reallocated in such amounts and proportions as are appropriate to restore the Adjusted Capital Account Balances of the Members to the position in which such Adjusted Capital Account Balances would have been if such Regulatory Allocation had not been made. Adjustments pursuant to this Section 3.6 shall only be made if such Regulatory Allocations are not reasonably expected to be reversed with offsetting allocations in subsequent taxable years. The Members intend that the allocations of Book income and loss pursuant to this Appendix shall result in Adjusted Capital Account Balances of the Members, as of the end of each taxable year of the Joint Venture Company and after all allocations pursuant to this Appendix have been made, equaling their Target Balances. This Appendix shall be interpreted in a manner consistent with such intent.

3.7 **Other Allocations**.

(A) If during any taxable year of the Joint Venture Company there is a change in any Member's interest in the Joint Venture Company, allocations of Book income or loss for such taxable year shall take into account the varying interests of the Members in the Joint Venture Company in a manner consistent with the requirements of Section 706 of the Code and Section 5.2(B) hereof.

(B) If and to the extent that any distribution of Section 751 Property to a Member in exchange for the distributee Member's interest in property other than Section 751 Property is treated as a sale or exchange of such Section 751 Property by the Joint Venture Company pursuant to Treas. Reg. § 1.751-1(b)(2), any Book gain or loss attributable to such deemed sale or exchange shall be allocated only to Members other than the distributee Member in a manner consistent with such Treasury Regulation.

(C) If and to the extent that any distribution of property other than Section 751 Property to a Member in exchange for the distributee Member's interest in Section 751 Property is

treated as a sale or exchange of such other property by the Joint Venture Company pursuant to Treas. Reg. § 1.751-1(b)(3), any Book gain or loss attributable to such deemed sale or exchange shall be allocated only to Members other than the distributee Member in a manner consistent with such Treasury Regulation.

ARTICLE 4
ALLOCATION OF TAX ITEMS

4.1 **In General**. Except as otherwise provided in this Article 4, all items of income, gain, loss, and deduction shall be allocated among the Members for federal income tax purposes in the same manner as the corresponding allocation for Book purposes.

4.2 **Section 704(c) Allocations**.

(A) In the event that the Book Value of an item of Joint Venture Company property differs from its Tax Basis, allocations of depreciation, depletion, amortization, gain, and loss with respect to such property will be made for federal income tax purposes in a manner that takes account of the variation between the Tax Basis and Book Value of such property in accordance with section 704(c)(1)(A) of the Code and Treas. Reg. § 1.704-1(b)(4)(i). The Board of Managers may select as the method for making such allocations, either the method described in Treas. Reg. § 1.704-3(c) or (d); *provided, however,* that the method selected for any asset shall be one that minimizes the effect of the "ceiling rule" on allocations to the Member that did not contribute such asset.

(B) For purposes of complying with Section 263A of the Code, depreciation, amortization and cost recovery deductions of the Joint Venture Company that are included in the capitalized cost of the Joint Venture Company's inventory shall be determined based on the Book Values of the Joint Venture Company's assets, and any difference between such amounts and the corresponding amounts as computed for U.S. federal income tax purposes shall be allocated separately to the Members pursuant to Section 704(c) of the Code.

4.3 **Tax Credits**. Tax credits shall be allocated among the Members in accordance with Treas. Reg. § 1.704-1(b)(4)(ii).

ARTICLE 5
OTHER TAX MATTERS

5.1 **Excess Nonrecourse Liabilities**. For the purpose of determining the Members' shares of the Joint Venture Company's Excess Nonrecourse Liabilities pursuant to Treas. Reg. §§ 1.752-3(a)(3) and 1.707-5(a)(2)(ii), and solely for such purpose, the Members' interests in profits are hereby specified to be their respective Sharing Interests.

5.2 Treatment of Loan Transactions.

(A) The Members agree that amounts outstanding under Member Notes (which for purposes of this Appendix B includes amounts outstanding under loans made pursuant to Section 2.3(H) of the Agreement) shall be treated for federal and applicable state income tax purposes as equity and not as debt for U.S. federal income tax purposes. To the extent a Non-

Funding Member makes a Make-Up Contribution together with accrued interest, such interest (solely for purposes of this Appendix B) shall be treated as a capital contribution, the payment of such interest to the Funding Member on the related Member Note shall be treated as a guaranteed payment pursuant to Section 707(c) of the Code, and the deduction of the Joint Venture Company in respect of such guaranteed payment shall be specially allocated to the Non-Funding Member. To the extent accrued interest on a Member Note has not been paid as of the end of a taxable year of the Joint Venture Company, the Members shall consult with each other to determine the appropriate income tax treatment of such accrued interest, and if they are unable to agree on such treatment the dispute resolution provisions of Section 10.6(B) shall apply.

(B) Upon a change in the Members' Sharing Interests, the Members agree that the Capital Accounts of the Members shall be adjusted so that to the greatest extent possible, but consistent with the goal of minimizing the adverse tax consequences to the Member whose interest increased (as reasonably determined by such Member)(other than adverse consequences resulting solely from receiving allocations of income or loss in accordance with its revised Sharing Interest), the Adjusted Capital Account Balances of the Members will equal their Target Balances immediately following the conversion.

5.3 **Treatment of Certain Distributions**. (A) In the event that (i) the Joint Venture Company makes a distribution that would (but for this Subsection (A)) be treated as a Nonrecourse Distribution; and (ii) such distribution does not cause or increase a deficit balance in the Capital Account of the Member receiving such distribution as of the end of the Joint Venture Company's taxable year in which such distribution occurs; then the Board of Managers may treat such distribution as not constituting a Nonrecourse Distribution to the extent permitted by Treas. Reg. § 1.704-2(h)(3).

(B) In the event that (i) the Joint Venture Company makes a distribution that would (but for this Subsection (B)) be treated as a Member Nonrecourse Distribution; and (ii) such distribution does not cause or increase a deficit balance in the Capital Account of the Member receiving such distribution as of the end of the Joint Venture Company's taxable year in which such distribution occurs; then the Board of Managers may treat such distribution as not constituting a Member Nonrecourse Distribution to the extent permitted by Treas. Reg. § 1.704-2(i)(6).

5.4 **Reduction of Basis**. In the event that a Member's interest in the Joint Venture Company may be treated in whole or in part as depreciable property for purposes of reducing such Member's basis in such interest pursuant to section 1017(b)(3)(C) of the Code, the Board of Managers may, upon the request of such Member, make a corresponding reduction in the basis of its depreciable property with respect to such Member. Such request shall be submitted to the Joint Venture Company in writing, and shall include such information as may be reasonably required in order to effect such reduction in basis. The costs of the Joint Venture Company in making and implementing any such adjustments shall be borne by the Member making such request.

5.5 **Entity Classification**. Neither the Joint Venture Company nor any Member shall file or cause to be filed any election, the effect of which would be to cause the Joint Venture

Company to be classified as other than a partnership for federal income tax purposes, without the prior written consent of all Members.

5.6 **Unified Audit Election**. The Joint Venture Company will elect, pursuant to section 6231(a)(1)(B)(ii) of the Code, to be subject to the unified audit rules of sections 6221-6234 of the Code, and all Members agree to sign such election.

5.7 **Application of Section 707(b) of the Code**. For purposes of determining the Members' respective interests in capital or profits of the Joint Venture Company under Section 707(b) of the Code, the Members agree that, unless otherwise agreed in writing, such interests shall be computed as of each date of determination as follows: (a) the Joint Venture Company shall be deemed to have a hypothetical taxable year that began with the beginning of its actual taxable year including such date of determination and ended as of such date of determination, with a closing of the Joint Venture Company's books as of such date (provided that deductions such as depreciation, amortization and the like that are computed on an annual basis shall be prorated on a daily basis so as to take into account only the portion attributable to the period up to that date), (b) the interests in profits of each Member as of such date shall equal the percentage of Book income or loss (excluding amounts, if any, required to be disregarded for purposes of applying Section 707(b) of the Code) that would have been allocated to each Member for such hypothetical taxable year, and (c) the capital interests of the Members as of such date shall equal the percentage of the total Capital Accounts of each Member as of such date, after adjustment to reflect the items described in Section 2.1(B), (C) and (D) of this Appendix B treated as occurring during such hypothetical taxable year.

5.8 **Section 754 Election**. The Joint Venture Company shall make or seek the revocation of, as applicable, an election under Section 754 of the Code with respect to the Joint Venture Company upon request of any Member whose Percentage Interest as of the end of any taxable year of the Joint Venture Company exceeds its Percentage Interest as of the Effective Date.

5.9 **Imputed Income**. If a Member is deemed for applicable income tax purposes to have received income from the Joint Venture Company as a result of one or more transactions that were not treated by the Joint Venture Company as giving rise to income to such Member, the Joint Venture Company shall make such adjustments to its allocations as are necessary so that, as closely as possible, such Member is placed in the same tax position as if such income was not deemed to have been recognized, provided that such adjustments shall not result in consequences to the other Member that are significantly more adverse to such other Member than if the position originally taken by the Joint Venture Company were upheld.

5.10 **Treatment of MTV Lease and Boise Supply Agreement**.

(A) The Members agree that the issuance of Joint Venture Company interests to Micron in exchange for the MTV Lease and the Boise Supply Agreement shall be treated for U.S. federal income tax purposes as taxable prepaid rent and as a taxable payment for services, respectively, by the Joint Venture Company to Micron and not as a contribution of property by Micron to the Joint Venture Company, in each case for the amount ascribed on Appendix D to such item. Consequently, the Members agree that Micron shall recognize income, and the Joint

Venture Company shall have an initial tax basis, for U.S. federal income tax purposes equal to such amounts. The Members further agree that the Joint Venture Company's initial tax basis in such amounts shall equal the income so recognized, and that such basis shall be amortized pursuant to Treas. Reg. § 1.167(a)-14 over the initial terms of such agreements.

(B) The Members further agree that if the treatment described in subsection (A) above ultimately is determined not to be the proper treatment for either of such items, the Members shall make such adjustments to the determination and allocation of the Joint Venture Company's items of income, gain, loss or deduction as are necessary (to the extent possible) to place the Members in the same tax position as if such treatment were respected.

5.11 **Tax Accounting Methods**. To the extent permitted by applicable law, the Joint Venture Company shall implement such tax elections that to the greatest extent possible result in the Joint Venture Company's cost of goods sold for purposes of determining the Joint Venture Company's Book income or loss equaling the sum of (a) "Cost" as such term is defined in the Supply Agreements, plus (b) any additional amounts included in the "amount realized" by the Joint Venture Company upon the sale of products to Intel and Micron, respectively.

5.12 **No Indemnity for Tax Consequences**. Neither of the Members nor the Joint Venture Company shall be responsible for the income tax consequences to the other Members resulting from this Appendix or the Agreement; *provided*, however, that the Members shall reasonably cooperate as requested in order to effectuate the intent of this Appendix, although such cooperation shall not require either Member to incur significant additional costs that are not reimbursed by the requesting Member.

5.13 **Precedent Agreements**. Amounts paid to Micron pursuant to the Precedent Agreement to Joint Venture, dated September 27, 2005, and the Second Precedent Agreement to Joint Venture, dated November 18, 2005, in each case by and between Micron and Intel, shall be treated as reimbursements to Micron of preformation expenditures as provided in Treas. Reg. § 1.707-4(d).

5.14 **Conflicts with Agreement**. In the event of any conflict between the terms of this Appendix B and any provision of the Agreement, the terms of this Appendix B shall govern.

APPENDIX C

IM FLASH TECHNOLOGIES, LLC

INITIAL MANAGERS

The initial Managers appointed by Intel will be:

Leslie S. Culbertson
Thomas R. Franz
Brian L. Harrison

The initial Managers appointed by Micron will be:

D. Mark Durcan
Brian J. Shields
W.G. Stover, Jr.

APPENDIX D

IM FLASH TECHNOLOGIES, LLC

INITIAL CAPITAL CONTRIBUTIONS

Intel Initial Capital Contribution

The Initial Capital Contribution of Intel is $1,196,176,471, payable as follows:

Intel Initial Contributed Assets:

Cash (to be delivered [***])	$[***]
Cash (to be delivered [***]) (the "**Intel Additional Cash**")	$[***]
Promissory Note substantially in the form attached hereto as Attachment D-1 in the amount of $[***] (representing funds to be delivered [***] the Joint Venture Company).	$[***]
Cash in the amount of $[***] (to be delivered to the Joint Venture Company upon certification from Micron (and Micron shall make reasonable efforts to provide at least ten (10) Business Days' notice of such pending certification), not contested by the Joint Venture Company after reasonable review and within 10 Business Days of the Joint Venture Company's receipt of Micron's certification, that construction is complete and the [***] Fab is ready for [***]).	$[***]
Total Intel Initial Capital Contribution (deemed to be contributed to the Joint Venture Company in full as of the Effective Date)	$1,196,176,471

If a Liquidating Event occurs prior to the delivery in full of such Initial Capital Contribution, all undelivered cash and amounts represented by Promissory Notes shall be delivered promptly after the occurrence of such Liquidating Event; provided, however, that if the construction and readiness for [***] *at the* [***] *Fab referred to in the provisions of this Appendix D of the Micron Initial Capital Contribution is not complete at the time of such Liquidating Event, only a portion of the $*[***] *described above shall be delivered, which portion shall be proportionate to the percentage of completion of such construction as determined by the Members in good faith.*

Micron Initial Capital Contribution

The Initial Capital Contribution of Micron is $1,245,000,000, payable as follows:

Micron Initial Contributed Assets:

Cash (to be delivered [***]) (the "**Micron Additional Cash**")	$250,000,000
Lehi Property (pursuant to entry into the Lehi Lease (which is treated as a transfer of property for federal income tax purposes as described in the Lehi Lease) and delivery of the Lehi Bill of Conveyance and all rights of Micron under express or implied warranties or indemnities from third parties with respect to the Lehi Property	Value $[***]
Prepaid Rent on [***], as follows:	
On the Effective Date	Value $[***]
Upon certification from Micron (and Micron shall make reasonable efforts to provide at least ten (10) Business Days' notice of such pending certification), not contested by the Joint Venture Company after reasonable review and within 10 Business Days of the Joint Venture Company's receipt of Micron's certification, that construction is complete and the [***] Fab is ready for [***]	Value $[***]
Boise Supply Agreement Prepay	Value $[***]
Total Micron Initial Capital Contribution (deemed to be contributed to the Joint Venture Company in full as of the Effective Date)	Value $1,245,000,000

If a Liquidating Event occurs prior to the delivery in full of such Initial Capital Contribution, (a) all undelivered cash and amounts shall be delivered promptly after the occurrence of such Liquidating Event and (b) if the construction and readiness for [***] *at the* [***] *Fab referred to in the provisions of this Appendix D of the Micron Initial Capital Contribution is not complete at the time of such Liquidating Event, a portion of the $*[***] *described above shall be deemed contributed, which portion shall be proportionate to the percentage of completion of such construction as determined by the Members in good faith.*

ATTACHMENT D-1

FORM OF

INITIAL CONTRIBUTION NOTE

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE MAY NOT BE TRANSFERRED OR RESOLD.

INTEL CORPORATION

PROMISSORY NOTE

No.: [_____]
Principal Amount: $[_____] Location: [_____]
Date of Issuance: [_____]

FOR VALUE RECEIVED, Intel Corporation, a Delaware corporation ("**Intel**"), promises to pay to IM Flash Technologies, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), the principal sum of [_____] Dollars ($[_____]) in accordance with Section 2 of this Promissory Note (this "**Note**").

This Note is delivered as a Capital Contribution to the Joint Venture Company pursuant to Section 2.1(A) of the Amended and Restated Limited Liability Company Operating Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Operating Agreement**") and is issued under and subject to the terms, provisions and conditions of the Operating Agreement. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Operating Agreement.

1. TERM.

(a) This Note shall remain outstanding until the payment of the entire principal balance of this Note (such unpaid principal balance at any given time is referred to a the "**Outstanding Balance**").

2. PAYMENTS.

Payments of the Outstanding Balance shall become due and payable by Intel to the Joint Venture Company (a) in whole or in part on the tenth Business Day following written notice by the Lead Controller of the Joint Venture Company sent to Intel that such amounts are necessary for the operation of the Joint Venture Company in accordance with the then-effective Approved Business Plan; and (b) in whole upon the liquidation of the Joint Venture Company in accordance with Article 13 of the Operating Agreement.

3. MISCELLANEOUS.

3.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

3.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to “sections” and “appendices” will mean “sections” and “appendices” to this Note.

3.3 All notices to the Joint Venture Company shall be sent addressed to the Authorized Officers, or the Chief Executive Officer, as applicable, of the Joint Venture Company at the Joint Venture Company’s principal place of business. All notices to Intel shall be addressed to Intel at the address as may be specified by Intel from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and Intel are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
IM Flash Technologies, LLC
1550 East 3400 North
Lehi, Utah 84043

Fax Number: (801) 767-5370

To Intel:
2200 Mission College Blvd.
Mailstop SC4-203
Santa Clara, CA 95054

Fax Number: (408) 653-8050

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

3.5 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties’ intent in entering into this Note.

3.6 Intel hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

3.7 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred upon the Joint Venture Company by this Note or any other document evidencing this Note, then

Intel promises and agrees to pay all costs, including attorneys' fees, incurred by the Joint Venture Company.

3.8 In the event of any conflict between the provisions of the Operating Agreement and this Note, the provisions of the Operating Agreement shall control.

IN WITNESS WHEREOF, Intel has executed this Note as of the date first above written.

INTEL CORPORATION

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

IM FLASH TECHNOLOGIES, LLC

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY INTEL CORPORATION
TO IM FLASH TECHNOLOGIES, LLC

APPENDIX E

Intentionally Omitted.

EXHIBIT A

FORM OF

MANDATORY NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH TECHNOLOGIES, LLC

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]

Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, IM Flash Technologies, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____]) and to pay interest on the outstanding principal of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.1 of the Amended and Restated Limited Liability Company Operating Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Operating Agreement**") and is issued under and subject to the terms, provisions and conditions of the Operating Agreement. Reference is hereby made to the Operating Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Operating Agreement. This

Note may be one of a series of Notes issued pursuant to Section 3.1 of the Operating Agreement. This Note is [a Mandatory Shortfall Note] [a Mandatory Equalization Note].

1. TERM.

(a) Subject to paragraph (b) below, from and after the date that is [***] after the date of this Note (the "**Maturity Date**"), the Funding Member shall elect to either:

(i) convert this Note in accordance with Section 4 below; or

(ii) permit this Note to remain outstanding (in which case this Note shall become a Continuing Mandatory Note) with the Maturity Date being the Liquidation Date (the Maturity Date as so extended, the "**Extended Maturity Date**").

In the event that the Funding Member fails to make an election under clause (i) or clause (ii) above, the Funding Member shall be deemed to have elected to permit this Note to remain outstanding in accordance with clause (ii) above, and this Note and the related Mandatory [Equalization][Shortfall] Note, shall automatically become a Continuing Mandatory Note.

(b) Subject to Section 4 below, upon the date of the first distribution under Section 13.13(C) of the Operating Agreement, the Outstanding Balance, plus all accrued and unpaid interest thereon, shall become due.

2. INTEREST. [***Mandatory Equalization Note***: [***]]

[***Mandatory Shortfall Note:*** As provided in the Operating Agreement, interest on the unpaid principal balance of this Note (such unpaid principal balance at any given time is referred to as the "**Outstanding Balance**") will accrue as follows:

(a) For the [***] after the issue date of this Note, interest will accrue at the [***] (as reported in the [***]), as in effect on the issue date of this Note and adjusted every [***], plus [***] ([***]) basis points, per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

(b) For the period starting on the day after the [***] anniversary of the issue date of this Note through the Maturity Date, interest will accrue at the [***] (as reported in the [***]), as in effect on the [***] anniversary of the issue date of this Note and adjusted every [***], per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

(c) [***] will accrue on the Outstanding Balance from the Maturity Date until this Note is converted or redeemed in full.**]**

All payments received shall be applied first against costs of collection and enforcement (if any), then against accrued and unpaid interest, and then against principal.

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Operating Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, from the Maturity Date through the Extended Maturity Date, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance plus all accrued and unpaid interest thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) If the Outstanding Balance plus all accrued and unpaid interest thereon shall become due as set forth in Section 1(b) above, (i) the Funding Member may elect to make a Conversion in full, but not in part, of the Outstanding Balance plus all accrued and unpaid interest thereon or (ii) if the Funding Member does not so elect, a Conversion of the Outstanding Balance plus all accrued and unpaid interest thereon (in full, but not in part) may be effected in accordance with Section 13.13(B) of the Operating Agreement.

(c) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of or interest on this Note as and when required by the Operating Agreement or the terms hereof, unless the Funding Member makes an election under Section 1(a) hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law); (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the Outstanding Balance, in which case the Outstanding Balance plus all accrued and unpaid interest

thereon shall be due and payable immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Operating Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to “sections” and “appendices” will mean “sections” and “appendices” to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Authorized Officers, or the Chief Executive Officer, as applicable, of the Joint Venture Company at the Joint Venture Company’s principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Operating Agreement and this Note, the provisions of the Operating Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH TECHNOLOGIES, LLC

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY IM FLASH TECHNOLOGIES
TO [_____]

EXHIBIT B

FORM OF

OPTIONAL [***] NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH TECHNOLOGIES, LLC

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]

Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, IM Flash Technologies, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____]) and to pay interest on the outstanding principal of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.2 of the Amended and Restated Limited Liability Company Operating Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Operating Agreement**") and is issued under and subject to the terms, provisions and conditions of the Operating Agreement. Reference is hereby made to the Operating Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Operating Agreement. This

Note may be one of a series of Notes issued pursuant to Section 3.2 of the Operating Agreement. This Note is [an Optional [***] Shortfall Note] [an Optional [***] Equalization Note].

1. TERM. (a) This note will mature on the [***].

(b) Subject to Section 4 below, upon the date of the first distribution under Section 13.13(C) of the Operating Agreement, the Outstanding Balance, plus all accrued and unpaid interest thereon, shall become due.

2. INTEREST. [***Optional* [***] *Equalization Note:*** [***]]

[**Optional [***] Shortfall Note:** As provided in the Operating Agreement, interest on the unpaid principal balance of this Note (such unpaid principal balance at any given time is referred to as the "**Outstanding Balance**") will accrue at the [***] (as reported in the [***]), as in effect on the issue date of this Note and adjusted every [***], per annum, compounded [***], calculated on the basis of a 360 day year and actual days elapsed.

All payments received shall be applied first against costs of collection and enforcement (if any), then against accrued and unpaid interest, and then against principal.

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Operating Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance plus all accrued and unpaid interest thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) If the Outstanding Balance plus all accrued and unpaid interest thereon shall become due as set forth in Section 1(b) above, (i) the Funding Member may elect to make a Conversion in full, but not in part, of the Outstanding Balance plus all accrued and unpaid interest thereon or (ii) if the Funding Member does not so elect, a Conversion of the Outstanding Balance plus all accrued and unpaid interest thereon (in full, but not in part) may be effected in accordance with Section 13.13(B) of the Operating Agreement.

(c) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of or interest on this Note as and when required by the Operating Agreement or the terms hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law); (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the Outstanding Balance, in which case the Outstanding Balance plus all accrued and unpaid interest thereon shall be due and payable immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Operating Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to "sections" and "appendices" will mean "sections" and "appendices" to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Authorized Officers, or the Chief Executive Officer, as applicable, of the Joint Venture Company at the Joint Venture Company's principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred

upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Operating Agreement and this Note, the provisions of the Operating Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH TECHNOLOGIES, LLC

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY IM FLASH TECHNOLOGIES
TO [_____]

EXHIBIT C

FORM OF

OPTIONAL OTHER NOTE

NEITHER THIS NOTE NOR ANY INTEREST IN THE JOINT VENTURE COMPANY (AS DEFINED BELOW) THAT MAY BE ACQUIRED UPON CONVERSION OF THIS NOTE HAS BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATES. THIS NOTE HAS BEEN ISSUED IN RELIANCE UPON THE REPRESENTATION OF THE HOLDER THAT IT HAS BEEN ACQUIRED FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TOWARDS THE RESALE OR OTHER DISTRIBUTION THEREOF. THIS NOTE AND ANY INTEREST IN THE JOINT VENTURE COMPANY ACQUIRED UPON CONVERSION OF THIS NOTE ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD UNLESS PERMITTED UNDER SECTIONS 12.2 OR 12.5 OF THE AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT, DATED FEBRUARY 27, 2007, OF THE JOINT VENTURE COMPANY AND THEN ONLY PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

IM FLASH TECHNOLOGIES, LLC

REDEEMABLE NOTE

No.: _____

Principal Amount: $[_____] Location: [_____]

Date of Issuance: [_____] Maturity Date: [_____]

FOR VALUE RECEIVED, IM Flash Technologies, LLC, a Delaware limited liability company (the "**Joint Venture Company**"), promises to pay to [_____], a Delaware corporation (the "**Funding Member**"), or such Wholly-Owned Subsidiary of the Funding Member as the Funding Member may designate, the principal sum of [_____] Dollars ($[_____])of this Convertible Promissory Note (this "**Note**"), in accordance with Section 2 of this Note.

This Note is delivered in exchange for Member Debt Financing received from the Funding Member pursuant to Section 3.3 of the Amended and Restated Limited Liability Company Operating Agreement, dated February 27, 2007, of the Joint Venture Company (the "**Operating Agreement**") and is issued under and subject to the terms, provisions and conditions of the Operating Agreement. Reference is hereby made to the Operating Agreement for a full statement of the respective rights, limitations of rights and duties of the Joint Venture Company, the Funding Member and [_____], a Delaware corporation (the "**Non-Funding Member**") and the terms under which this Note is issued and delivered. Capitalized terms used in this Note and not defined shall have the meanings set forth in the Operating Agreement. This

Note may be one of a series of Notes issued pursuant to Section 3.3 of the Operating Agreement. This Note is an Optional Other Shortfall Note.

1. TERM. This Note will mature on the [***].

2. INTEREST. [***]

3. PREPAYMENT. The Joint Venture Company shall prepay, without premium or penalty, this Note if, as and to the extent required by the Operating Agreement, but only upon written notice executed by the chief executive officer of the holder of this Note.

4. CONVERSION.

(a) At any time, and from time to time, the Funding Member may, at its election, transfer to the Joint Venture Company as a Capital Contribution all or a portion of the Outstanding Balance thereon and such amount shall be added to the Capital Contribution Balance of the Funding Member (a "**Conversion**").

(b) Upon the occurrence of an Event of Default under Section 5 below, the Funding Member may, in addition to the remedies set forth in Section 6 below, elect to make a Conversion.

5. DEFAULT. The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an "**Event of Default**"):

(a) failure by the Joint Venture Company to pay any principal of on this Note as and when required by the Operating Agreement or the terms hereof; and

(b) (i) the entry of a decree or order for relief of the Joint Venture Company by a court of competent jurisdiction in any involuntary case involving the Joint Venture Company under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; (iii) the ordering of the winding up or liquidation of the Joint Venture Company's affairs; (iv) the filing with respect to the Joint Venture Company of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of sixty (60) days or which is dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law); (v) the commencement by the Joint Venture Company of a voluntary case under any bankruptcy, insolvency or other similar law now or hereafter in effect; (vi) the consent by the Joint Venture Company to the entry of an order for relief in an involuntary case under any such law or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent for the Joint Venture Company or for any substantial part of the Joint Venture Company's assets or property; or (vii) the making by the Joint Venture Company of any general assignment for the benefit of creditors.

6. REMEDIES. If an Event of Default occurs, the Funding Member may, at its election, (a) elect to make a Conversion in accordance with Section 4 above, (b) accelerate repayment of the

Outstanding Balance, in which case the Outstanding Balance shall be due and payable immediately, and (c) pursue a claim for payment of the amounts required to be paid under the Operating Agreement or this Note.

7. MISCELLANEOUS.

7.1 This Note shall be construed and enforced in accordance with and governed by the laws of the State of Delaware without giving effect to the principles of conflict of laws thereof.

7.2 The titles, captions and headings of this Note are provided for convenience of reference only and shall not be deemed to constitute a part of this Note. Unless otherwise specifically stated, all references herein to “sections” and “appendices” will mean “sections” and “appendices” to this Note.

7.3 All notices to the Joint Venture Company shall be sent addressed to the Authorized Officers, or the Chief Executive Officer, as applicable, of the Joint Venture Company at the Joint Venture Company’s principal place of business. All notices to the Funding Member or the Non-Funding Member shall be sent addressed to such Member at the address as may be specified by Members from time to time in a notice to the Joint Venture Company. Notwithstanding the foregoing, the initial notice addresses for the Joint Venture Company and the Members are set forth below. All notices are effective the next day, if sent by recognized overnight courier or facsimile, or five (5) days after deposit in the United States mail, postage prepaid, properly addressed and return receipt requested.

To the Joint Venture Company:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

To the Funding Member:
[_____]
[_____]
[_____]
[_____]

Fax Number: [_____]

7.4 No delay or omission to exercise any right, power or remedy accruing to the Funding Member, upon any breach or default of the Joint Venture Company under this Note, shall impair any such right, power or remedy of the Funding Member nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of any similar breach of default thereafter occurring or any waiver of any other breach or default theretofore or thereafter occurring. The acceptance at any time by the Funding Member of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable. Any waiver, permit, consent or approval of any kind or character on the part of the Funding Member of any breach of default under this Note or any waiver on the part of the Funding Member of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in such writing. All other remedies provided for in this Note shall be exclusive and shall be in lieu of any other remedies that the Funding Member may have in respect of this Note, at law or in equity.

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

7.6 Should any provision of this Note be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Note shall remain in full force in all other respects and the parties hereto shall negotiate in good faith appropriate modifications to this Note that most nearly effects the parties' intent in entering into this Note.

7.7 The Joint Venture Company hereby waives presentment, demand, protest, notice of dishonor, diligence and all other notices, any release or discharge arising from any extension of time, discharge of a prior party, release of any or all of any security given from time to time for this Note, or other cause of release or discharge other than actual payment in full hereof.

7.8 The Funding Member shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Funding Member and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

7.9 Time is of the essence hereof.

7.10 It is expressly agreed that if this Note is referred to an attorney or if suit is brought to collect or interpret this Note or any part hereof or to enforce or protect any rights conferred upon the Funding Member by this Note or any other document evidencing this Note, then the Joint Venture Company promises and agrees to pay all costs, including attorneys' fees, incurred by the Funding Member.

7.11 If any provisions of this Note would require the Joint Venture Company to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, the Joint Venture Company shall instead pay interest under this Note at the highest rate permitted by applicable law.

7.12 In the event of any conflict between the provisions of the Operating Agreement and this Note, the provisions of the Operating Agreement shall control.

IN WITNESS WHEREOF, the Joint Venture Company has executed this Note as of the date first above written.

IM FLASH TECHNOLOGIES, LLC

By:_____

Name:_____

Title:_____

ACKNOWLEDGED AND ACCEPTED:

[_____], the Funding Member

By:_____

Name:_____

Title:_____

SIGNATURE PAGE TO
PROMISSORY NOTE
ISSUED BY IM FLASH TECHNOLOGIES
TO [_____]

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

SUPPLY AGREEMENT

This SUPPLY AGREEMENT (the "**Agreement**"), is made and entered into as of this 27th day of February, 2007 (the "**Effective Date**"), by and between Intel Technology Asia Pte Ltd, a Singapore private limited company ("**Intel Singapore**"), and IM Flash Singapore, LLP, a Singapore limited liability partnership (the "**Joint Venture Company**").

RECITALS

A. The Joint Venture Company is engaged in the manufacturing, assembly and testing of NAND Flash Memory Products (as defined hereinafter) for Intel Singapore.

B. Intel Singapore and the Joint Venture Company (each, a "**Party**" and collectively, the "**Parties**") desire the Joint Venture Company to supply Products, including Secondary Silicon, for Intel Singapore in accordance with Intel Singapore's Sharing Interest upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT

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

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETIVE MATTERS

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

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each of the Schedules will apply only to the corresponding Section or subsection of this Agreement, (3) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with Modified GAAP, (4) words in the singular include the plural and visa versa, (5) the term "**including**" means "including

without limitation," and (6) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual Section or portion hereof. All references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days and all references to "**quarter(ly)**," "**month(ly)**" or "**year(ly)**" will mean Fiscal Quarter, Fiscal Month or Fiscal Year, respectively.

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

ARTICLE 2
OBLIGATIONS OF THE JOINT VENTURE COMPANY; PROCESSES AND CONTROLS

2.1 General Obligations. The Joint Venture Company will (1) supply Product to Intel Singapore in accordance with the purchasing process set forth in Article 4 hereof; (2) develop its Facilities and operations to meet Capacity according to the Initial Business Plan, as may be amended thereafter, and the Operating Plan and the obligations set forth herein, including Sections 2.2, 2.5 and 2.9; (3) supply Products which meet the Specification(s), Price, Yield, Cycle-Time, and Quality and Reliability as agreed by the Parties; and (4) operate its Facilities so that Product output from any one Facility matches the other Facilities in form, fit and function, in accordance with Section 2.14.

2.2 Products to Supply. The Joint Venture Company will manufacture, assemble and test Products for Intel Singapore in accordance with the Operating Plan and applicable Specifications, developed in response to Intel Singapore's Demand Forecast provided to the Joint Venture Company in accordance with Article 3 below.

2.3 Process and Design Information. Intel Singapore agrees to provide to the Joint Venture Company: (i) such process technology or information as is required to be disclosed under the Joint Development Program Agreement, and the Technology License Agreement; and (ii) design information reasonably required to manufacture NAND Flash Memory Wafers.

2.4 Control; Processes. The Joint Venture Company and Intel Singapore will review the Joint Venture Company's control and process mechanisms, including but not limited to such mechanisms that are utilized to ensure that all parameters of the Specification, including the Performance Criteria, are met or exceeded in the Joint Venture Company's manufacture of Products by either the Joint Venture Company or its approved subcontractor for Intel Singapore. The Parties agree to work together in good faith to define mutually agreeable control and process mechanisms including the following: [***].

2.4 Equipment, Systems, Materials. Except as provided in other Joint Venture Documents, the Joint Venture Company shall be responsible for procuring all manufacturing equipment, tools, automated material handling systems therein and materials, including Prime

Wafers, which are reasonably required for the Joint Venture Company to achieve the Operating Plan. The Joint Venture Company shall endeavor to manage the entire supply chain, including equipment, materials, systems, maintenance, subcontractors and vendors, to create efficiency and maximize the Performance Criteria.

2.5 Production Masks. Unless otherwise agreed with Intel Singapore, the Joint Venture Company or its subcontractors will be responsible to obtain, maintain, repair and replace masks used in the production of Products. Such masks will only be used in the production of Products for Intel Singapore. Production masks will be repaired and replaced solely at mask operations which have been approved by Intel Singapore, and which approval shall not be unreasonably withheld. The Joint Venture Company or its subcontractors will retain possession, but not ownership of any underlying copyrights, maskworks or other intellectual property, of any physical production masks which the Joint Venture Company has made under this Section 2.6.

2.6 Designation of WIP. At Intel Singapore's option, the Joint Venture Company will ensure that WIP at Facilities or its subcontractor's facilities is designated for Intel Singapore from Wafer Start. If Intel Singapore does not elect to have WIP so designated, the Joint Venture Company will designate the WIP for Intel Singapore after Probe Testing. Custom Product of Intel Singapore, if any, must be designated as for Intel Singapore from Wafer Start at all the Facilities or its subcontractor's facilities.

2.7 Subcontractors. The Joint Venture Company may utilize subcontractors to perform any portion of the manufacture, assembly and test process in making Products for Intel Singapore, subject to all subcontractors being approved by the Members, and which approval shall not be unreasonably withheld. The Joint Venture Company will ensure that all contracts with subcontractors will provide the Joint Venture Company with the same level of access and controls as set forth in the Agreement, including Sections 2.4, 2.9, 2.10, 2.11 and 2.12 and Article 5.

2.8 Staffing. The Joint Venture Company shall adequately staff its Facilities, and ensure that its subcontractors adequately staff their facilities, to sustain and manage production of Product for Intel Singapore, including the obligations set forth in Section 2.1 and meeting scheduled commitments, including the Operating Plan and the Performance Criteria.

2.9 Business Continuity Plan. The Joint Venture Company will develop a process (the "**Business Continuity Plan**") to recover the production process in the event of a natural disaster or any other event that disrupts the production process or the ability of the Joint Venture Company to meet its delivery commitments to Intel Singapore or satisfy customer orders. If requested by Intel Singapore, the Joint Venture Company will review its Business Continuity Plan with Intel Singapore and make changes as agreed with Intel Singapore, subject to any confidentiality requirements.

2.10 [***]. In addition to the quarterly review and monthly report requirements set forth in Sections 3.2 and 3.3, the Joint Venture Company will promptly notify Intel Singapore of [***].

2.11 Traceability and Data Retention. Intel Singapore and the Joint Venture Company shall review the Joint Venture Company's process traceability system [***]. The Joint Venture

Company agrees to maintain such data for a minimum of [***]. The Joint Venture Company will endeavor to provide Intel Singapore [***].

2.12 Additional Customer Requirements. Intel Singapore will inform the Joint Venture Company in writing of any auditable supplier requirements of any Intel Singapore customer relating to any Facility at which Product is manufactured, assembled or tested. The Parties will work together in good faith to resolve such requests.

2.13 Transfer; Equivalency of Operations. Intel Singapore will cooperate in good faith with the Joint Venture Company to transfer Intel Singapore's technology to the Joint Venture Company, if such technology transfer is required under the Joint Venture Documents. The Joint Venture Company will establish similar baseline Product performance standards, including form, fit and function, at Facilities and subcontracted facilities. Such efforts will include the provision of up to date equivalent materials (including correlation wafers), data and information.

ARTICLE 3
PLANNING MEETINGS AND FORECASTS; PERFORMANCE REVIEWS AND REPORTS

3.1 Planning and Forecasting

(a) Intel Singapore will quarterly provide the Joint Venture Company, in a timeframe to be mutually agreed by the Parties to meet customer expectations, with a written demand forecast for [***] ([***]) quarters corresponding to the Joint Venture Company's Fiscal Quarters or as may be otherwise agreed between the Parties. This demand will include desired finished product breakout by design id, technology node, wafer as finished goods or package type ("**Demand Forecast**").

(b) The Joint Venture Company shall furnish Intel Singapore with a written response within [***] ([***]) Business Days indicating a response regarding capacity and what portion of the demand that the Joint Venture Company can commit to meet. This written response (the "**Planning Forecast**") will include:

[***]

(c) Based on the Planning Forecast, the Joint Venture Company shall develop a [***] ([***]) Fiscal Quarter proposed Product loading plan for such period (**"Proposed Loading Plan"**). The Joint Venture Company shall provide Intel Singapore with the Proposed Loading Plan at least [***] ([***]) Business Days prior to its review by the Manufacturing Committee.

(d) The Joint Venture Company will submit the Proposed Loading Plan, Planning Forecast and other requested information to the Manufacturing Committee for endorsement. Once endorsed by the Manufacturing Committee, the Proposed Loading Plan shall become part of the Operating Plan.

3.2 Performance Reviews and Reports. The Joint Venture Company shall meet with

Intel Singapore each quarter to discuss the Performance Criteria and the most recent monthly report. The monthly report will be distributed to Intel Singapore monthly, on a date to be agreed by the Parties, and will include the following information:

(a) Describes [***];

(b) Describes [***];

(c) Describes [***].

(d) Identifies [***].

3.3 Monthly Review. In addition, the Parties shall hold a monthly meeting, on a date to be agreed by the Parties, with the primary purpose of [***].

ARTICLE 4
PURCHASE AND SALE OF PRODUCTS

4.1 Product Quantity. Intel Singapore shall purchase from the Joint Venture Company a percentage, equal to Intel Singapore's Sharing Interest (as the same may change from time to time), of all of the Joint Venture Company's output of Products that meet the Specifications. The Joint Venture Company shall produce all Products in accordance with the Operating Plan developed in response to Intel Singapore's Demand Forecast under Article 3 above. If Intel Singapore fails to purchase its full Sharing Interest of the Joint Venture Company's output, produced in accordance with the Operating Plan ("**Under-loading**"), then the increased Prices associated with such Under-loading shall be isolated and charged solely to Intel Singapore, which Intel Singapore shall remain solely responsible for paying. Notwithstanding the foregoing, Intel Singapore may elect, but is not obligated, to purchase Product in excess of its Sharing Interest only by mutual agreement of the other Member.

4.2 Secondary Silicon. Any Secondary Silicon produced by the Joint Venture Company or its subcontractors will be provided [***] by the Joint Venture Company to the Members in a percentage equal to Intel Singapore's Sharing Interest (as the same may change from time to time). ALL SECONDARY SILICON PROVIDED HEREUNDER IS PROVIDED ON AN "AS IS," "WHERE IS" WITH ALL FAULTS AND DEFECTS BASIS WITHOUT WARRANTY OF ANY KIND.

4.3 Placement of Purchase Orders. Prior to the commencement of every Fiscal Quarter or another time period agreed by the Parties in conjunction with the planning cycle specified in Article 3, the Joint Venture Company shall place a non-cancelable blanket purchase order in writing (via e-mail or facsimile transmission) for the quantity of Product to be supplied by the Joint Venture Company in the following Fiscal Quarter as indicated in the Operating Plan (each such order, a "**Purchase Order**"). Intel Singapore may issue change orders to such Purchase Orders to reflect changes in the Operating Plan, provided that such changes can be reasonably accommodated by the Joint Venture Company without disrupting ongoing manufacturing operations. Intel Singapore may also elect to place out-of-cycle purchase order of Product, including expedited Probed Wafers, to the Joint Venture Company on an as-needed basis. The

terms and conditions of this Agreement supersede the terms and conditions contained in either Party's sales or purchase documentation provided in connection herewith unless expressly agreed otherwise in a writing signed by each Party.

4.4 Shortfall. The Joint Venture Company shall immediately notify Intel Singapore in writing of any inability to meet a Purchase Order commitment to Intel Singapore.

4.5 Acceptance of Purchase Order. Each Purchase Order that corresponds to the Operating Plan in the manner contemplated by Section 4.3 and is otherwise free of errors shall be deemed accepted by the Joint Venture Company upon receipt and shall be binding on the Parties to the extent not inconsistent with the Operating Plan.

4.6 Content of Purchase Orders. Each Purchase Order shall specify the following items:

(a) Purchase Order number;

(b) Description and part number of each Product;

(c) Forecasted quantity of each different Product and the Sharing Interest portion thereof for the calendar month;

(d) Forecasted unit Price and total forecasted Price for each different Product, and total forecasted Price for all Products ordered;

(e) Level of Probe Testing;

(f) Marking specification and packaging requirements;

(g) Requested delivery date;

(h) Place of delivery; and

(i) Other terms (if any).

4.7 Taxes.

(a) General. All sales, use and other transfer taxes imposed directly on or solely as a result of the supplying of Products and the payments therefore provided herein shall be stated separately on the Joint Venture Company's invoice, collected from Intel Singapore and shall be remitted by the Joint Venture Company to the appropriate tax authority (**"Recoverable Taxes"**), unless Intel Singapore provides valid proof of tax exemption prior to the effective date of the transfer of the Products or otherwise as permitted by law prior to the time the Joint Venture Company is required to pay such taxes to the appropriate tax authority. When property is delivered and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of taxes by Intel Singapore is required by law, the Joint Venture Company shall have sole responsibility for payment of said taxes to the appropriate tax authorities.

In the event such taxes are Recoverable Taxes and the Joint Venture Company does not collect tax from Intel Singapore or pay such taxes to the appropriate governmental entity on a timely basis, and is subsequently audited by any tax authority, liability of Intel Singapore will be limited to the tax assessment for such Recoverable Taxes with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Notwithstanding anything herein to the contrary, taxes other than Recoverable Taxes shall not be reimbursed by Intel Singapore, and each Party is responsible for its own respective income taxes (including franchise and other taxes based on net income or a variation thereof), taxes based upon gross revenues or receipts, and taxes with respect to general overhead, including but not limited to business and occupation taxes, and such taxes shall not be Recoverable Taxes.

(b) Withholding Taxes. In the event that Intel Singapore is prohibited by law from making payments to the Joint Venture Company unless Intel Singapore deducts or withholds taxes therefrom and remits such taxes to the local taxing jurisdiction, then Intel Singapore shall duly withhold and remit such taxes and shall pay to the Joint Venture Company the remaining net amount after the taxes have been withheld. Such taxes shall not be Recoverable Taxes and Intel Singapore shall not reimburse the Joint Venture Company for the amount of such taxes withheld.

4.8 Invoicing; Payment. The Joint Venture Company shall invoice Intel Singapore on a monthly basis for the Price of the Products provided and all overhead, interest, general and administrative and other costs, including all start-up costs for Facilities which shall be split between the Members based on Sharing Interest. All amounts owed under this Agreement are stated, calculated and shall be paid in United States Dollars. Except as otherwise specified in this Agreement, Intel Singapore shall pay the Joint Venture Company for the amounts due, owing, and duly invoiced under this Agreement within [***] ([***]) days following delivery of an invoice therefor to such place as the Joint Venture Company may reasonably direct therein.

4.9 Payment to Subcontractors. The Joint Venture Company shall be responsible for and shall hold Intel Singapore harmless for any and all payments to its vendors or subcontractors utilized in the performance of this Agreement.

4.10 Delivery, Title and Risk of Loss. The Joint Venture Company, in order to ensure timely and complete shipment of Products to Intel Singapore, shall arrange for and pay for all shipping charges, insurance, taxes, customs charges and any fees and duties in connection with such shipment. The Joint Venture Company shall hold title to and risk of loss of Products under this Agreement, including WIP held by subcontractors, until tender to the carrier, at which time title and risk of loss and damage to Products shall transfer to Intel Singapore.

4.11 Packaging. All shipment packaging of the Products shall be in conformance with the Specifications, the Intel Singapore's reasonable instructions, and general industry standards, and shall be resistant to damage that may occur during transportation. Marking on the packages shall be made by the Joint Venture Company in accordance with Intel Singapore's reasonable instructions.

4.12 Shipment. All Products shall be prepared for shipment in a manner that: (i) follows good commercial practice; (ii) is acceptable to common carriers for shipment at the lowest rate; and (iii) is adequate to ensure safe arrival. The Joint Venture Company shall mark all containers

with necessary lifting, handling, and shipping information, Purchase Order number, date of shipment, and the names of Intel Singapore and the applicable customer. If no instructions are given, the Joint Venture Company shall select the most price effective carrier, given the time constraints known to the Joint Venture Company. At Intel Singapore's request, the Joint Venture will provide drop-shipment of Products to Intel Singapore's customers. Such shipment service may be provided by a subcontractor to the Joint Venture Company provided that title remains with the Joint Venture Company and then passes to Intel Singapore upon tender to the carrier.

4.13 Customs Clearance. Upon Intel Singapore's request, the Joint Venture Company will promptly provide Intel Singapore with a statement of origin for all Products and with applicable customs documentation for Products wholly or partially manufactured outside of the country of import.

ARTICLE 5
VISITATIONS, AUDITS

5.1 Visits. The Joint Venture Company will support Intel Singapore's reasonable requests for visits to Facilities and meetings for the purpose of reviewing performance of production of Products including requests for further information and assistance in troubleshooting performance issues. Such requests shall be reasonably granted by the Joint Venture Company so long as such visits and meetings do not unduly interfere with the Joint Venture Company's operations and business affairs.

5.2 Audit. Intel Singapore representatives and key customer representatives, upon Intel Singapore's request, shall be allowed to visit the Joint Venture Company's Facilities during normal working hours upon reasonable advanced written notice to the Joint Venture Company for the purposes of monitoring production processes and compliance with any requirements set forth in this Agreement and the Specifications. Upon completion of the audit, the Joint Venture Company and Intel Singapore will agree to an audit closure plan, to be documented in the audit report issued by Intel Singapore.

5.3 Financial Audit. Intel Singapore reserves the right to have the Joint Venture Company's books and records related to the Pricing hereunder inspected and audited not more than [***] during any Fiscal Year to ensure compliance with Schedule 4.8 of this Agreement in regards to Pricing. Such audit will be performed by an independent third party auditor acceptable to both Parties at Intel Singapore's expense. Intel Singapore shall provide [***] ([***]) days advance written notice to the Joint Venture Company of its desire to initiate an audit and the audit shall be scheduled so that it does not adversely impact or interrupt the Joint Venture Company's business operations. If the audit reveals any material discrepancies, the Joint Venture Company or Intel Singapore shall reimburse the other, as applicable, for any material discrepancies within [***] ([***]) days after completion of the audit. The results of such audit shall be kept confidential by the auditor and only the discrepancies shall be reported to the Parties, and be limited to discrepancies identified by the audit. Notwithstanding the foregoing, any auditor reports shall not disclose any Joint Venture Company pricing or terms of purchase for any purchases of materials or equipment hereunder to Intel Singapore, absent written agreement from the Members' respective legal counsel. If any audit reveals a material discrepancy, Intel Singapore may increase the frequency of such audits to [***] for the subsequent [***] ([***]) month period.

5.4 Subcontractor; Vendor Visits. The Joint Venture Company will use commercially reasonable efforts to ensure that all contracts with vendors and subcontractors will provide the Joint Venture Company and Intel Singapore with the right to visit and audit rights similar to those set forth in this Article 5.

ARTICLE 6
WARRANTY; HAZARDOUS MATERIALS; DISCLAIMER

6.1 Product Warranty. The Joint Venture Company makes the following warranties regarding Products furnished hereunder, which warranties shall survive any delivery, inspection, acceptance, payment or resale of the Products:

(a) Products conform to all agreed Specifications;

(b) Products are free from defects in materials or workmanship; and

(c) The Joint Venture Company has the necessary right, title, and interest to provide Products to the Joint Venture Company and the Products will be free of liens and encumbrances, not including any implied warranty of non-infringement.

6.2 Warranty Claims. Within a period of time, not to exceed the lesser of the actual warranty period applicable to the end customer for the NAND Flash Memory Product at issue or eighteen (18) months from the date of the delivery of the Products at issue to the Intel Singapore ("**Warranty Claim Period**"), Intel Singapore shall notify the Joint Venture Company if it believes that any Product does not meet the Product warranty set forth in Section 6.1. Intel Singapore shall return such Products to the Joint Venture Company as directed by the Joint Venture Company. If a Product is determined not to be in compliance with such warranty, then Intel Singapore shall be entitled to return such Product and cause the Joint Venture Company to replace at the Joint Venture Company's expense or, at Intel Singapore's option, receive a credit or refund of any monies paid to the Joint Venture Company in respect of such Product, save that such credit or refund shall in no event exceed on a per-unit basis the final price paid for the Product under this Agreement. The basis for such refund or credit shall be the Price on a per-unit basis in the month in which the returned Product was invoiced to the Intel Singapore. THE FOREGOING REMEDY IS INTEL SINGAPORE'S SOLE AND EXCLUSIVE REMEDY FOR THE JOINT VENTURE COMPANY'S FAILURE TO MEET ANY WARRANTY OF SECTION 6.1.

6.3 Inspections. Members may, upon reasonable advance written notice, request samples of Products (including WIP) during production for purposes of determining compliance with the requirements and Specification(s) hereunder, provided that the provision of such samples shall not materially impact the Joint Venture Company's performance to the Operating Plan or its ability to meet delivery requirements under any accepted Purchase Order. Any samples provided hereunder shall be: (i) limited in quantity to the amount reasonably necessary for the purposes hereunder; (ii) included in the pricing; and (iii) included in any performance requirements, if any. The Joint Venture Company shall provide reasonable assistance for the safety and convenience of Intel Singapore in obtaining the samples in such manner as shall not unreasonably hinder or delay the Joint Venture Company's performance.

6.4 Hazardous Materials.

(a) If Products provided hereunder include Hazardous Materials as determined in accordance with Applicable Law, the Joint Venture Company represents and warrants that the Joint Venture Company and the Joint Venture Company's employees, agents, and subcontractors actually working with such materials in providing the Products hereunder to Intel Singapore shall be trained in accordance with Applicable Law regarding the nature of and hazards associated with the handling, transportation, and use of such Hazardous Materials, as applicable to the Joint Venture Company.

(b) To the extent required by Applicable Law, the Joint Venture Company shall provide Intel Singapore with Material Safety Data Sheets (MSDS) either prior to or accompanying any delivery of Products to Intel Singapore.

6.5 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE 6, THE JOINT VENTURE COMPANY HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE, WITH RESPECT TO THE PRODUCTS PROVIDED UNDER THIS AGREEMENT. THE WARRANTIES WILL NOT APPLY TO: (i) ANY WARRANTY CLAIM OR ISSUE, OR DEFECT TO THE EXTENT CAUSED BY TECHNICAL MATERIALS PROVIDED OR SPECIFIED BY, THROUGH OR ON BEHALF OF THE MEMBERS OR COMMITTEES OF MEMBERS, INCLUDING BUT NOT LIMITED TO PRODUCT DESIGNS, TECHNOLOGY AND TEST PROGRAMS; OR (ii) THE WARRANTIES WILL NOT APPLY TO ANY OF THE PRODUCTS THAT HAVE BEEN REPAIRED OR ALTERED, EXCEPT AS AUTHORIZED BY THE JOINT VENTURE COMPANY, OR WHICH ARE SUBJECTED TO MISUSE, NEGLIGENCE, ACCIDENT OR ABUSE.

ARTICLE 7
CONFIDENTIALITY; OWNERSHIP

7.1 Protection and Use of Confidential Information. All information provided, disclosed or obtained in the performance of any of the Parties' activities under this Agreement shall be subject to all applicable provisions of the Confidentiality Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "**Confidential Information**" under the Confidentiality Agreement for which each Party is considered a "**Receiving Party**" under such agreement. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

7.2 Masks. Any masks produced pursuant to this Agreement will be based on Product designs owned by Intel and shall be treated as Confidential Information of Intel.

7.3 Intellectual Property Ownership. Ownership of any intellectual property developed by the Joint Venture Company will be governed by the Omnibus IP Agreement.

ARTICLE 8
INDEMNIFICATION

8.1 Mutual General Indemnity. Subject to Article 9, each Party ("**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party ("**Indemnified Party**") from and against any and all Indemnified Losses based on or attributable to any Third Party Claim or threatened Third Party Claim arising under this Agreement and as a result of the Indemnifying Party's negligence, gross negligence or willful misconduct of the Indemnifying Party or any of its respective officers, directors, employees, agents or subcontractors. Notwithstanding the foregoing, this Section 8.1 shall not apply to any claims or losses based on or attributable to intellectual property infringement.

8.2 Indemnification Procedures.

(a) Promptly after the receipt by any Indemnified Party of a notice of any Third Party Claim that an Indemnified Party seeks to be indemnified under this Agreement, such Indemnified Party shall give written notice of such Third Party Claim to the Indemnifying Party, stating in reasonable detail the nature and basis of each allegation made in the Third Party Claim and the amount of potential Indemnified Losses with respect to each allegation, to the extent known, along with copies of the relevant documents received by the Indemnified Party evidencing the Third Party Claim and the basis for indemnification sought. Failure of the Indemnified Party to give such notice shall not relieve the Indemnifying Party from liability on account of this indemnification, except if and only to the extent that the Indemnifying Party is actually prejudiced by such failure or delay. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim. The Indemnifying Party shall have the right to assume the defense of the Indemnified Party with respect to such Third Party Claim upon written notice to the Indemnified Party delivered within thirty (30) days after receipt of the particular notice from the Indemnified Party. So long as the Indemnifying Party has assumed the defense of the Third Party Claim in accordance herewith and notified the Indemnified Party in writing thereof, (i) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third Party Claim, it being understood that the Indemnifying Party shall pay all reasonable costs and expenses of counsel for the Indemnified Party after such time as the Indemnified Party has notified the Indemnifying Party of such Third Party Claim and prior to such time as the Indemnifying Party has notified the Indemnified Party that it has assumed the defense of such Third Party Claim, (ii) the Indemnified Party shall not file any papers or, other than in connection with a settlement of the Third Party Claim, consent to the entry of any judgment without the prior written consent of the Indemnifying Party (not to be unreasonably withheld, conditioned or delayed) and (iii) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim (other than a judgment or settlement that is solely for money damages and is accompanied by a release of all indemnifiable claims against the Indemnified Party) without the prior written consent of the Indemnified Party (not to be unreasonably withheld, conditioned or delayed). Whether or not the Indemnifying Party shall have assumed the defense of the Indemnified Party for a Third Party Claim, such Indemnifying Party shall not be obligated to indemnify and hold harmless the Indemnified Party hereunder for any consent to the entry of

judgment or settlement entered into with respect to such Third Party Claim without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Equitable Remedies. In the case of any Third Party Claim where the Indemnifying Party reasonably believes that it would be appropriate to settle such Third Party Claim using equitable remedies (i.e., remedies involving the future activity and conduct of the Joint Venture Company), the Indemnifying Party and the Indemnified Party shall work together in good faith to agree to a settlement; provided, however, that no Party shall be under any obligation to agree to any such settlement.

(c) Treatment of Indemnification Payments; Insurance Recoveries. Any indemnity payment under this Agreement shall be decreased by any amounts actually recovered by the Indemnified Party under third party insurance policies with respect to such Indemnified Losses (net of any premiums paid by such Indemnified Party under the relevant insurance policy), each Party agreeing (i) to use all reasonable efforts to recover all available insurance proceeds and (ii) to the extent that any indemnity payment under this Agreement has been paid by the Indemnifying Party to the Indemnified Party prior to the recovery by the Indemnified Party of such insurance proceeds, the amount of such insurance proceeds actually recovered by the Indemnified Party shall be promptly paid to the Indemnifying Party.

(d) Certain Additional Procedures. The Indemnified Party shall cooperate and assist the Indemnifying Party in determining the validity of any Third Party Claim for indemnity by the Indemnified Party and in otherwise resolving such matters. The Indemnified Party shall cooperate in the defense by the Indemnifying Party of each Third Party Claim (and the Indemnified Party and the Indemnifying Party agree with respect to all such Third Party Claims that a common interest privilege agreement exists between them), including: (i) permitting the Indemnifying Party to discuss the Third Party Claim with such officers, employees, consultants and representatives of the Indemnified Party as the Indemnifying Party reasonably requests; (ii) providing to the Indemnifying Party copies of documents and samples of products as the Indemnifying Party reasonably requests in connection with defending such Third Party Claim; (iii) preserving all properties, books, records, papers, documents, plans, drawings, electronic mail and databases of the Joint Venture Company and relating to matters pertinent to the conduct of the Joint Venture Company under the Indemnified Party's custody or control in accordance with such Party's corporate documents retention policies, or longer to the extent reasonably requested by the Indemnifying Party; (iv) notifying the Indemnifying Party promptly of receipt by the Indemnified Party of any subpoena or other third party request for documents or interviews and testimony; (v) providing to the Indemnifying Party copies of any documents produced by the Indemnified Party in response to or compliance with any subpoena or other third party request for documents; and (vi) except to the extent inconsistent with the Indemnified Party's obligations under applicable law and except to the extent that to do so would subject the Indemnified Party or its employees, agents or representatives to criminal or civil sanctions, unless ordered by a court to do otherwise, not producing documents to a third party until the Indemnifying Party has been provided a reasonable opportunity to review, copy and assert privileges covering such documents.

ARTICLE 9
LIMITATION OF LIABILITY

9.1 Damages Limitation. SUBJECT TO SECTION 9.4, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR OTHER INDIRECT DAMAGES OR ANY PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER SUCH DAMAGES ARE BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER THEORY OF LIABILITY, AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 THE PARTIES AGREE THAT TO THE EXTENT A CLAIM ARISES UNDER THIS AGREEMENT, THE CLAIM SHALL BE BROUGHT UNDER THIS AGREEMENT.

9.3 Damages Cap. SUBJECT TO SECTION 9.4, IF EITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY MATTER ARISING FROM THIS AGREEMENT, WHETHER BASED UPON AN ACTION OR CLAIM IN CONTRACT, WARRANTY, EQUITY, NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE (INCLUDING ANY ACTION OR CLAIM ARISING FROM AN ACT OR OMISSION, NEGLIGENT OR OTHERWISE, OF THE LIABLE PARTY), THE AMOUNT OF DAMAGES RECOVERABLE AGAINST THE LIABLE PARTY WITH RESPECT TO ANY BREACH, PERFORMANCE, NONPERFORMANCE, ACT OR OMISSION HEREUNDER WILL NOT EXCEED THE LESSER OF THE ACTUAL DAMAGES ALLOWED HEREUNDER; OR (i) IN THE CASE OF THE JOINT VENTURE COMPANY BRINGING A CLAIM FOR TEN MILLION DOLLARS ($10,000,000) PER CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE; OR (ii) IN THE CASE OF PARENT BRINGING A CLAIM: (a) NON-CUSTOM PRODUCTS SOLD BY THE JOINT VENTURE COMPANY TO BOTH MEMBERS, TEN MILLION DOLLARS ($10,000,000) PER CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE; OR (b) IN THE CASE OF CUSTOM PRODUCTS, THE AMOUNT OF DAMAGES, IF ANY, ACTUALLY RECOVERED BY THE JOINT VENTURE COMPANY FROM ANY THIRD PARTY RELATING TO THE PARENT'S CLAIM OR SERIES OF RELATED CLAIMS ARISING FROM THE SAME CAUSE.

9.4 Exclusions and Mitigation. Section 9.1 and Section 9.3 will not apply to either Party's breach of Article 7. Section 9.3 will not apply to Intel Singapore's failure to meet either an Under-loading charge under Section 4.1 or a payment obligation which is due and payable under this Agreement. Each Party shall have a duty to use commercially reasonable efforts to mitigate damages for which the other Party is responsible.

9.5 Losses. Except as provided under Section 8.1, the Joint Venture Company and Intel Singapore each shall be responsible for Losses to their respective, tangible, personal or real property (whether owned or leased), and each Party agrees to look only to their own insurance arrangements with respect to such damages. The Joint Venture Company and Intel Singapore waive all rights to recover against each other, including each Party's insurers' subrogation rights, if any, for any loss or damage to their respective tangible personal property or real property (whether owned or leased) from any cause covered by insurance maintained by each of them, including their respective deductibles or self-insured retentions. Notwithstanding the foregoing, in the event of a loss hereunder involving a property, transit or crime event or occurrence that: (i) is

insured under Intel Singapore's insurance policies; (ii) a single insurance deductible and/or limits applies; and (iii) the loss event or occurrence affects the insured ownership or insured legal interests of both Parties, then the Parties shall share the cost of the deductible and share the limits in proportion to each Party's insured ownership or legal interests in relative proportion to the total insured ownership or legal interests of the Parties.

ARTICLE 10
TERM AND TERMINATION; SUPPLY OBLIGATIONS FOLLOWING TRIGGERING EVENT

10.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until the first to occur of (a) the Liquidation Date or (b) a Minority Closing, unless terminated sooner solely by mutual agreement (such period of time, the "**Term**").

10.2 Termination. This Agreement may not be terminated for any reason, including breach by a Party, before termination pursuant to Section 10.1.

10.3 Masks. On the Liquidation Date, the Joint Venture Company shall immediately transfer possession of production masks possessed by it at each Facility to the Member that then owns that Facility as of the Liquidation Date.

10.4 Survival. Termination of this Agreement shall not affect any of the Parties' respective rights accrued or obligations owed before termination, including any rights or obligations of the Parties in respect of any accepted Purchase Orders existing at the time of termination. In addition, the following shall survive termination of this Agreement for any reason: Sections 2.12, 6.2 and 6.5, and Articles 4, 7, 8, 9, 10 and 11.

10.5 Supply Obligations Following Triggering Event. Upon the occurrence of a Triggering Event any supply obligations of the Parties will be as set forth in Article 13 of the IMFS Agreement.

ARTICLE 11
MISCELLANEOUS

11.1 Force Majeure Events. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event. A Force Majeure Event shall operate to excuse a failure to perform an obligation hereunder only for the period of time during which the Force Majeure Event renders performance impossible or infeasible and only if the Party asserting Force Majeure as an excuse for its failure to perform has provided written notice to the other Party specifying the obligation to be excused and describing the events or conditions constituting the Force Majeure Event. As used herein, "**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of the party failing to perform, including, without limitation: (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign governmental authorities or courts; (d) labor

disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party's nonperformance hereunder.

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

11.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of each Party hereto. Neither this Agreement nor any right or obligation hereunder may be assigned or delegated by either Party in whole or in part to any other Person, other than a Wholly-Owned Subsidiary of such Party, without the prior written consent of the non-assigning Party. Any purported assignment in violation of the provisions of this Section 11.3 shall be null and void and have no effect.

11.4 Compliance with Laws and Regulations. Each of the Parties shall comply with, and shall use reasonable efforts to require that its respective subcontractors comply with, Applicable Laws relating to this Agreement and the performance of a Party's rights hereunder.

11.5 Notice. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) a transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, (c) the expiration of five (5) Business Days after the day when mailed in the United States by certified or registered mail, postage prepaid, or (d) delivery in Person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

In the case of the IM Flash Singapore, LLP:

IM Flash Singapore, LLP
c/o Allen & Gledhill
One Marina Boulevard #28-00
Singapore 018989
Attention: Lee Kim Shin / Oh Hsiu Hau
Facsimile Number: +65 6327 3800

With a mandatory copy to:

Micron Technology, Inc.
8000 S. Federal Way
Boise, Idaho 83716

Attention: General Counsel
Facsimile Number: (208) 368-4540

In the case of Intel Singapore:

Intel Technology Asia Pte Ltd
#06-01/02 StarHub Centre
Singapore 229469
Attention: Intel Legal Department
Facsimile: +65 62131018

With a mandatory copy to:

Intel Corporation
2200 Mission College Blvd.
Mail-Stop SC4-203
Santa Clara, CA 95054
Attention: General Counsel
Facsimile Number: (408) 653-8050

and

Intel Corporation
2200 Mission College Blvd.
Mail-Stop SC4-203
Santa Clara, CA 95054
Attention: Treasurer
Facsimile Number: (408) 765-4793

Either Party may change its address for notices upon giving ten (10) days' written notice of such change to the other Party in the manner provided above.

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

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

faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

11.8 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

11.9 Amendment. This Agreement may not be modified or amended except by a written instrument executed by or on behalf of each of the Parties to this Agreement.

11.10 Entire Agreement. This Agreement and the applicable provisions of the Confidentiality Agreement, which are incorporated herein and made a part hereof, together with the Exhibits and Schedules hereto and the agreements and instruments expressly provided for herein, constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

11.11 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the Republic of Singapore, without giving effect to the principles of conflict of laws thereof.

11.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court located in Delaware and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court.

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

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

11.15 Insurance. Without limiting or qualifying the Joint Venture Company's liabilities, obligations, or indemnities otherwise assumed by the Joint Venture Company pursuant to this Agreement, the Joint Venture Company shall maintain, at no charge to Intel Singapore, with companies acceptable to Intel Singapore:

(a) Commercial General Liability with limits of liability not less than $[***]

per occurrence and including liability coverage for bodily injury or property damage (1) assumed in a contract or agreement pertaining to The Joint Venture Company's business and (2) arising out of The Joint Venture Company's products, Services, or work. The Joint Venture Company's insurance shall be primary with respect to liabilities assumed by The Joint Venture Company in this Agreement to the extent such liabilities are the subject of the Joint Venture Company's insurance, and any applicable insurance maintained by Intel Singapore shall be excess and non-contributing. The above coverage shall name Intel Singapore as additional insured as respects The Joint Venture Company's work or services provided to or on behalf of Intel Singapore.

(b) Automobile Liability Insurance with limits of liability not less than $[***] per accident for bodily injury or property damage.

(c) Statutory Workers' Compensation coverage, including a Broad Form All States Endorsement in the amount required by law, and Employers' Liability Insurance in the amount of $[***] per occurrence. Such insurance shall include mutual insurer's waiver of subrogation.

[*Signature page follows*]

IN WITNESS WHEREOF, this Agreement has been duly executed by and on behalf of the Parties hereto as of the Effective Date.

INTEL TECHNOLOGY ASIA PTE LTD

By:___/s/ Ravi Jacob_____

Name:___ Ravi Jacob

Title:___Treasurer

THIS IS THE SIGNATURE PAGE FOR THE SUPPLY AGREEMENT ENTERED INTO BY AND BETWEEN INTEL TECHNOLOGY ASIA PTE LTD AND IM FLASH SINGAPORE, LLP

EXHIBIT A
DEFINITIONS

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

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

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

"**Approved Business Plan**" shall have the meaning set forth in the IMFS Agreement.

"**Assembly Outs**" shall mean a Product for which the Assembly Services have been completed and meets all of the Assembly Specification applicable at such time and is not Secondary Silicon or Rejects.

"**Business Continuity Plan**" shall have the meaning set forth in Section 2.10 hereof.

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

"**Capacity**" means the rate of output (defined in terms of units per time period), at a particular point in time, at which a particular Facility or set of Facilities of the Joint Venture Company (or of a third party on the Joint Venture Company's behalf) is capable of producing such units.

"**Confidential Information**" shall have the meaning set forth in Section 7.1 hereof.

"**Confidentiality Agreement**" means that Amended and Restated Mutual Confidentiality Agreement by and among the Joint Venture Company, Intel, Micron, Intel Singapore, Micron Singapore and IMFT dated as of the Effective Date.

"**Custom Products**" shall have the meaning set forth in the Product Designs Committee Agreement.

"**Cycle-Time**" means the time required to process a unit through a portion of the manufacturing process (e.g., fab, assembly, or final test) or through the manufacturing process as a whole.

"**Demand Forecast**" shall have the meaning set forth in Section 3.1(a) hereof.

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

"**Excursion**" means an occurrence, either during production or after customer delivery that is outside normal historical behavior as established by both Parties in writing in the applicable Specifications which may impact performance, Quality and Reliability, or customer delivery commitments for Probed Wafers, NAND Flash Memory Product or Known Good Die.

"**Facilities**" shall mean all of the Joint Venture Company's facilities at which it may perform manufacturing, assembly or test services, including subcontractors.

"**Fiscal Quarter**" means any of the four financial accounting quarters within the Joint Venture Company's Fiscal Year.

"**Fiscal Month**" means any of the twelve financial accounting months within the Joint Venture Company's Fiscal Year.

"**Fiscal Year**" means the fiscal year of the Joint Venture Company for financial accounting purposes.

"**Flash Memory Integrated Circuit**" shall have the meaning set forth in the IMFS Agreement.

"**Force Majeure Event**" shall have the meaning set forth in Section 11.1.

"**GAAP**" means United States generally accepted accounting principles as in effect from time to time.

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

"**Hazardous Materials**" means dangerous goods, chemicals, contaminants, substances, pollutants or any other materials that are defined as hazardous by relevant local, state, national, or international law, regulations and standards.

"**IMFS Agreement**" means the Limited Liability Partnership Agreement of the Joint Venture Company by and between Intel Singapore and Micron Singapore dated as of the Effective Date.

"**IMFT**" means IM Flash Technologies, LLC, a Delaware limited liability company.

"**Indemnified Party**" shall mean any of the following to the extent entitled to seek indemnification under this Agreement: Intel Singapore, the Joint Venture Company, and their respective Affiliates, officers, directors, employees, agents, assigns and successors.

"**Indemnified Losses**" shall mean all direct, out-of-pocket liabilities, damages, losses, costs and expenses of any nature incurred by an Indemnified Party, including reasonable attorneys' fees and consultants' fees, and all damages, fines, penalties and judgments awarded or

entered against an Indemnified Party, but specifically excluding any special, consequential or other types of indirect damages.

"**Indemnifying Party**" shall mean the Party owing a duty of indemnification to another Party with respect to a particular Third Party Claim.

"**Initial Business Plan**" shall have the meaning set forth in the IMFS Agreement.

"**Intel**" means Intel Corporation, a Delaware corporation.

"**Intel Singapore**" means Intel Technology Asia Pte Ltd, a Singapore private limited company.

"**Joint Development Program Agreement**" shall mean the Joint Development Program Agreement by and between Micron and Intel dated January 6, 2006.

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

"**Joint Venture Documents**" shall have the meaning set forth in the IMFS Agreement.

"**Known Good Die**" means a raw wafer that has been processed to the point of containing functional and/or operational NAND Flash Memory Integrated Circuits that has undergone Probe Testing (a.k.a. "Sort" procedure), meeting predefined performance and quality criteria and singulated to individual semiconductor die. Die will have been fully tested but will not been assembled into final packaging or undergone final product testing.

"**Liquidation Date**" shall have the meaning set forth in the IMFS Agreement.

"**Losses**" shall mean, collectively, any and all insurable liabilities, damages, losses, costs and expenses (including reasonable attorneys' and consultants' fees and expenses).

"**Manufacturing Committee**" shall have the meaning set forth in the Omnibus Agreement.

"**Members**" means Micron Singapore and Intel Singapore.

"**Micron**" shall mean Micron Technology, Inc., a Delaware Company.

"**Micron Singapore**" shall mean Micron Semiconductor Asia Pte. Ltd., a Singapore private limited company.

"**Minority Closing**" shall have the meaning set forth in the IMFS Agreement.

"**Modified GAAP**" shall have the meaning set forth in the IMFS Agreement.

"**NAND Flash Memory Integrated Circuit**" means a Flash Memory Integrated Circuit,

in the memory cells included in the Flash Memory Integrated Circuit are arranged in groups of serially connected memory cells (each such group of serially connected memory cells called a "string") in which the drain of each memory cell of a string (other than the first memory cell in the string) is connected in series to the source of another memory cell in such string, the gate of each memory cell in such string is directly accessible, and the drain of the uppermost bit of such string is coupled to the bitline of the memory array.

"**NAND Flash Memory Product**" shall have the meaning set forth in the IMFS Agreement.

"**NAND Flash Memory Wafer"** means a raw wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor die.

"**Omnibus Agreement**" shall mean the Omnibus Agreement by and between Intel and Micron dated as of the Effective Date.

"**Omnibus IP Agreement**" shall mean the Omnibus IP Agreement by and among Micron, Micron Singapore, Intel, Intel Singapore, the Joint Venture Company and IMFT dated as of the Effective Date.

"**Operating Plan**" means the Manufacturing Plan, Assembly Plan and Testing Plan developed pursuant to the Definitions in the IMFS Agreement.

"**Optional Purchase Agreement**" shall mean the Optional Purchase Agreement by and between Micron and Intel dated January 6, 2006, as amended.

"**Party**" and "**Parties**" shall have the meaning set forth in the Recitals to this Agreement.

"**Performance Criteria**" means [***].

"**Person**" shall have the meaning set forth in the IMFS Agreement.

"**Planning Forecast**" shall have the meaning set forth in Section 3.1(b) hereof.

"**Price**" or "**Pricing**" means the calculation set forth on Schedule 4.8 hereof.

"**Prime Wafer**" means the raw silicon wafers required, on a product-by-product basis, for the manufacturer.

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

"**Probed Wafer**" means a Prime Wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing, but before singulation of said die into individual semiconductor dice.

"**Products**" means a Probed Wafer, Known Good Die, or NAND Flash Memory Product, or such other products that are manufactured by the Joint Venture Company under Section 2.2 hereof.

"**Proposed Loading Plan**" shall have the meaning set forth in Section 3.1(c) hereof.

"**Purchase Order**" shall have the meaning set forth in Section 4.3 hereof.

"**Quality and Reliability**" or "**Q&R**" means building and sustaining relationships which assess, anticipate, and fulfill the quality and reliability standards as set forth in the Specification or Operating Plan for Products.

"**Receiving Party**" shall have the meaning set forth in Section 7.1 hereof.

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.7 hereof.

"**Secondary Silicon**" shall mean: i) a Prime Wafer that has been processed to the point of containing NAND Flash Memory Integrated Circuits organized in multiple semiconductor die and that has undergone Probe Testing would otherwise constitute a Probed Wafer but for failure to achieve qualification; or (ii) singulated and/or packaged die that would otherwise constitute Assembly Outs or Test Outs but for failure to achieve qualification; and otherwise conform to the applicable Secondary Silicon Specification.

"**Semiconductor Manufacturing Technology**" shall have the meaning set forth in the Omnibus IP Agreement.

"**Sharing Interest**" shall have the meaning set forth in the IMFS Agreement.

"**Specifications**" means those specifications used to describe, characterize, and define the quality and performance of NAND Flash Memory Products and Known Good Die, including any interim performance specifications at Probe Testing or other testing, as such specifications may be determined from time to time by the Joint Venture Company.

"**Subsidiary**" shall have the meaning set forth in the IMFS Agreement.

"**Technology License Agreement**" shall mean the Technology License Agreement by and among Micron, Intel and IMFT dated January 6, 2006, as amended.

"**Term**" shall have the meaning set forth in Section 10.1 hereof.

"**Test Outs**" shall mean a Product Candidate for which Testing Services have been completed and meets all of the Testing Specification applicable at such time and is not Secondary Silicon or Rejects.

"**Third Party Claim**" shall mean any claim, demand, action, suit or proceeding, and any actual or threatened lawsuit, complaint, cross-complaint or counter-complaint, arbitration or other legal or arbitral proceeding of any nature, brought in any court, tribunal or judicial forum anywhere in the world, regardless of the manner in which such proceeding is captioned or styled, by any Person other than Intel Singapore, the Joint Venture Company and Affiliates of the foregoing, against an Indemnified Party, in each case alleging entitlement to any Indemnified Losses pursuant to any indemnification obligation under this Agreement.

"**Triggering Event**" shall have the meaning set forth in the IMFS Agreement.

"**Under-loading**" shall have the meaning set forth in Section 4.1.

"**Wafer Start**" shall mean the initiation of manufacturing services with respect to a Prime Wafer.

"**Warranty Claim Period**" shall have the meaning set forth in Section 6.2 hereof.

"**Wholly-Owned Subsidiary**" shall have the meaning set forth in the IMFS Agreement.

"**WIP**" means work in process. This includes all wafers and Product in wafer fabrication, sort, assembly, and/or final test, including prime and secondary wafers, and all completed Product units not yet delivered to Intel Singapore.

"**Yield**" means anticipated output of Product from WIP at a particular point in time, including line yield, die yield, assembly yield and final testing yield.

SCHEDULE 4.8
PRICE

.

RULE 13a-14(a) CERTIFICATION OF
CHIEF EXECUTIVE OFFICER

I, Steven R. Appleton, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Micron Technology, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 10, 2007

/s/ STEVEN R. APPLETON
Steven R. Appleton
Chairman, Chief Executive Officer and President

EXHIBIT 31.2

RULE 13a-14(a) CERTIFICATION OF
CHIEF FINANCIAL OFFICER

I, W. G. Stover, Jr., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Micron Technology, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 10, 2007

/s/ W. G. STOVER, JR
W. G. Stover, Jr.
Vice President of Finance and Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. 1350

I, Steven R. Appleton, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Micron Technology, Inc. on Form 10-Q for the period ended March 1, 2007, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Micron Technology, Inc.

Date: April 10, 2007

By: /s/ STEVEN R. APPLETON
Steven R. Appleton
Chairman, Chief Executive Officer and President

EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. 1350

I, W. G. Stover, Jr., certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Micron Technology, Inc. on Form 10-Q for the period ended March 1, 2007, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Micron Technology, Inc.

Date: April 10, 2007

By: /s/ W. G. STOVER, JR.
W. G. Stover, Jr.
Vice President of Finance and Chief Financial Officer