

---

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the quarterly period ended March 29, 2008.

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 000-06217

**INTEL CORPORATION**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

94-1672743  
(I.R.S. Employer  
Identification No.)

2200 Mission College Boulevard, Santa Clara, California  
(Address of principal executive offices)

95054-1549  
(Zip Code)

(408) 765-8080  
(Registrant's telephone number, including area code)

N/A  
(Former name, former address, and former fiscal year, if changed since last report)

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  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "accelerated filer," "large accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):  
Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

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

Shares outstanding of the Registrant's common stock:

Class  
Common stock, \$0.001 par value

Outstanding as of April 25, 2008  
5,728 million

---

PART I — FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

INTEL CORPORATION  
CONSOLIDATED CONDENSED STATEMENTS OF INCOME (Unaudited)

(In Millions, Except Per Share Amounts)	Three Months Ended	
	March 29, 2008	March 31, 2007
<b>Net revenue</b>	<b>\$ 9,673</b>	<b>\$ 8,852</b>
Cost of sales	4,466	4,420
<b>Gross margin</b>	<b>5,207</b>	<b>4,432</b>
Research and development	1,467	1,400
Marketing, general and administrative	1,349	1,282
Restructuring and asset impairment charges	329	75
<b>Operating expenses</b>	<b>3,145</b>	<b>2,757</b>
<b>Operating income</b>	<b>2,062</b>	<b>1,675</b>
Gains (losses) on equity investments, net	(59)	29
Interest and other, net	168	169
<b>Income before taxes</b>	<b>2,171</b>	<b>1,873</b>
Provision for taxes	728	237
<b>Net income</b>	<b>\$ 1,443</b>	<b>\$ 1,636</b>
<b>Basic earnings per common share</b>	<b>\$ 0.25</b>	<b>\$ 0.28</b>
<b>Diluted earnings per common share</b>	<b>\$ 0.25</b>	<b>\$ 0.28</b>
<b>Cash dividends declared per common share</b>	<b>\$ 0.268</b>	<b>\$ 0.225</b>
<b>Weighted average shares outstanding:</b>		
<b>Basic</b>	<b>5,787</b>	<b>5,777</b>
<b>Diluted</b>	<b>5,879</b>	<b>5,874</b>

See accompanying notes.

**INTEL CORPORATION**  
**CONSOLIDATED CONDENSED BALANCE SHEETS (Unaudited)**

(In Millions)	March 29, 2008	Dec. 29, 2007
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 5,883	\$ 7,307
Short-term investments	4,993	5,490
Trading assets	2,816	2,566
Accounts receivable, net	2,725	2,576
Inventories	3,272	3,370
Deferred tax assets	1,143	1,186
Other current assets	1,232	1,390
<b>Total current assets</b>	<b><u>22,064</u></b>	<b><u>23,885</u></b>
<b>Property, plant and equipment, net of accumulated depreciation of \$30,260 (\$29,134 as of December 29, 2007)</b>	<b>16,667</b>	<b>16,918</b>
<b>Marketable equity securities</b>	<b>530</b>	<b>987</b>
<b>Other long-term investments</b>	<b>4,473</b>	<b>4,398</b>
<b>Goodwill</b>	<b>3,916</b>	<b>3,916</b>
<b>Other long-term assets</b>	<b>5,737</b>	<b>5,547</b>
<b>Total assets</b>	<b><u>\$ 53,387</u></b>	<b><u>\$ 55,651</u></b>
<b>Liabilities and stockholders' equity</b>		
Current liabilities:		
Short-term debt	\$ 189	\$ 142
Accounts payable	2,338	2,361
Accrued compensation and benefits	1,325	2,417
Accrued advertising	759	749
Deferred income on shipments to distributors	643	625
Other accrued liabilities	2,775	1,938
Income taxes payable	639	339
<b>Total current liabilities</b>	<b><u>8,668</u></b>	<b><u>8,571</u></b>
<b>Long-term income taxes payable</b>	<b>811</b>	<b>785</b>
<b>Deferred tax liabilities</b>	<b>170</b>	<b>411</b>
<b>Long-term debt</b>	<b>1,990</b>	<b>1,980</b>
<b>Other long-term liabilities</b>	<b>1,088</b>	<b>1,142</b>
<b>Contingencies (Note 16)</b>		
Stockholders' equity:		
Preferred stock	—	—
Common stock and capital in excess of par value, 5,722 shares issued and outstanding (5,818 as of December 29, 2007)	12,118	11,653
Accumulated other comprehensive income (loss)	72	261
Retained earnings	28,470	30,848
<b>Total stockholders' equity</b>	<b><u>40,660</u></b>	<b><u>42,762</u></b>
<b>Total liabilities and stockholders' equity</b>	<b><u>\$ 53,387</u></b>	<b><u>\$ 55,651</u></b>

See accompanying notes.

**INTEL CORPORATION**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS (Unaudited)**

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
<b>Cash and cash equivalents, beginning of period</b>	<b>\$ 7,307</b>	<b>\$ 6,598</b>
Cash flows provided by (used for) operating activities:		
Net income	1,443	1,636
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	1,102	1,187
Share-based compensation	219	284
Restructuring, asset impairment, and net loss on retirement of assets	343	81
Excess tax benefit from share-based payment arrangements	(7)	(18)
Amortization of intangibles	63	64
(Gains) losses on equity investments, net	59	(29)
(Gains) losses on divestitures	(39)	—
Deferred taxes	(137)	(150)
Changes in assets and liabilities:		
Trading assets	38	(201)
Accounts receivable	(172)	17
Inventories	75	(65)
Accounts payable	(23)	17
Accrued compensation and benefits	(1,095)	(767)
Income taxes payable and receivable	337	(432)
Other assets and liabilities	9	(72)
Total adjustments	772	(84)
<b>Net cash provided by operating activities</b>	<b>2,215</b>	<b>1,552</b>
Cash flows provided by (used for) investing activities:		
Additions to property, plant and equipment	(907)	(1,361)
Purchases of available-for-sale investments	(2,199)	(2,924)
Maturities and sales of available-for-sale investments	2,624	1,533
Investments in non-marketable equity instruments	(213)	(489)
Purchases of trading assets	(325)	—
Maturities and sales of trading assets	67	—
Net proceeds from divestitures	75	—
Other investing activities	(43)	25
<b>Net cash used for investing activities</b>	<b>(921)</b>	<b>(3,216)</b>
Cash flows provided by (used for) financing activities:		
Increase (decrease) in short-term debt, net	47	(42)
Proceeds from government grants	—	26
Excess tax benefit from share-based payment arrangements	7	18
Proceeds from sales of shares through employee equity incentive plans	468	586
Repurchase and retirement of common stock	(2,501)	(400)
Payment of dividends to stockholders	(739)	(650)
<b>Net cash used for financing activities</b>	<b>(2,718)</b>	<b>(462)</b>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>(1,424)</b>	<b>(2,126)</b>
<b>Cash and cash equivalents, end of period</b>	<b>\$ 5,883</b>	<b>\$ 4,472</b>
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest, net of capitalized interest	\$ —	\$ 3
Income taxes, net of refunds	\$ 505	\$ 679

See accompanying notes.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited**

**Note 1: Basis of Presentation**

We prepared our interim consolidated condensed financial statements that accompany these notes in conformity with U.S. generally accepted accounting principles, consistent in all material respects with those applied in our Annual Report on Form 10-K for the year ended December 29, 2007. We have made estimates and judgments affecting the amounts reported in our consolidated condensed financial statements and the accompanying notes. Our actual results may differ materially from these estimates. The accounting estimates that require our most significant, difficult, and subjective judgments include:

- the valuation of non-marketable equity investments;
- the assessment of recoverability of long-lived assets;
- the recognition and measurement of current and deferred income taxes (including the measurement of uncertain tax positions);
- the valuation of inventory; and
- the valuation and recognition of share-based compensation.

In accordance with the adoption of 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” (SFAS No. 159), cash flows from certain trading assets have been classified as cash flows from investing activities beginning in the first quarter of 2008. See “Note 2: Recent Accounting Pronouncements and Accounting Changes” for further discussion.

The interim financial information is unaudited, but reflects all normal adjustments that are, in our opinion, necessary to provide a fair statement of results for the interim periods presented. This interim information should be read in conjunction with the consolidated financial statements in our Annual Report on Form 10-K for the year ended December 29, 2007.

**Note 2: Recent Accounting Pronouncements and Accounting Changes**

In the first quarter of 2008, we adopted SFAS No. 157 “Fair Value Measurements” (SFAS No. 157) for all financial assets and financial liabilities and for all non-financial assets and non-financial liabilities recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). SFAS No. 157 defines fair value, establishes a framework for measuring fair value, and enhances fair value measurement disclosure. The adoption of SFAS No. 157 did not have a significant impact on our consolidated financial statements, and the resulting fair values calculated under SFAS No. 157 after adoption were not significantly different than the fair values that would have been calculated under previous guidance. See “Note 3: Fair Value” for further details on our fair value measurements.

In February 2008, the Financial Accounting Standards Board (FASB) issued FASB Staff Position (FSP) 157-1, “Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement under Statement 13” (FSP 157-1) and FSP 157-2, “Effective Date of FASB Statement No. 157” (FSP 157-2). FSP 157-1 amends SFAS No. 157 to remove certain leasing transactions from its scope. FSP 157-2 delays the effective date of SFAS No. 157 for all non-financial assets and non-financial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually), until the beginning of the first quarter of fiscal 2009. We are currently evaluating the impact that SFAS No. 157 will have on our consolidated financial statements when it is applied to non-financial assets and non-financial liabilities that are not measured at fair value on a recurring basis beginning in the first quarter of 2009.

In the first quarter of 2008, we adopted SFAS No. 159. SFAS No. 159 permits companies to choose to measure certain financial instruments and other items at fair value using an instrument-by-instrument election. The standard requires that unrealized gains and losses are reported in earnings for items measured using the fair value option. See “Note 3: Fair Value” for further discussion.

SFAS No. 159 also requires cash flows from purchases, sales, and maturities of trading securities to be classified based on the nature and purpose for which the securities were acquired. We assessed the nature and purpose of our trading assets and determined that our marketable debt instruments will be classified on the statement of cash flows as investing activity. Our equity instruments offsetting deferred compensation will continue to be classified as operating activity as they are maintained to offset changes in liabilities related to the equity market risk of certain deferred compensation arrangements. SFAS No. 159 does not allow for retrospective application to periods prior to fiscal year 2008, therefore all trading asset activity for prior periods will continue to be presented as operating activities.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

Staff Accounting Bulletin 110 (SAB 110) issued by the U.S. Securities and Exchange Commission (SEC) was effective for us beginning in the first quarter of 2008. SAB 110 amends the SEC's views discussed in Staff Accounting Bulletin 107 (SAB 107) regarding the use of the simplified method in developing estimates of the expected lives of share options in accordance with SFAS No. 123 (revised 2004), "Share-Based Payment" (SFAS No. 123(R)). We will continue to use the simplified method until we have the historical data necessary to provide reasonable estimates of expected lives in accordance with SAB 107, as amended by SAB 110.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" (SFAS No. 141(R)). Under SFAS No. 141(R), an entity is required to recognize the assets acquired, liabilities assumed, contractual contingencies, and contingent consideration at their fair value on the acquisition date. It further requires that acquisition-related costs be recognized separately from the acquisition and expensed as incurred; that restructuring costs generally be expensed in periods subsequent to the acquisition date; and that changes in accounting for deferred tax asset valuation allowances and acquired income tax uncertainties after the measurement period be recognized as a component of provision for taxes. In addition, acquired in-process research and development (IPR&D) is capitalized as an intangible asset and amortized over its estimated useful life. The adoption of SFAS No. 141(R) will change our accounting treatment for business combinations on a prospective basis beginning in the first quarter of fiscal year 2009.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements—an amendment of ARB No. 51" (SFAS No. 160). SFAS No. 160 changes the accounting and reporting for minority interests, which will be recharacterized as non-controlling interests and classified as a component of equity. SFAS No. 160 is effective for us on a prospective basis for business combinations with an acquisition date beginning in the first quarter of fiscal year 2009. As of March 29, 2008, we did not have any minority interests. The adoption of SFAS No. 160 will not impact our consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133" (SFAS No. 161). The standard requires additional quantitative disclosures (provided in tabular form) and qualitative disclosures for derivative instruments. The required disclosures include how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows; relative volume of derivative activity; the objectives and strategies for using derivative instruments; the accounting treatment for those derivative instruments formally designated as the hedging instrument in a hedge relationship; and the existence and nature of credit-related contingent features for derivatives. SFAS No. 161 does not change the accounting treatment for derivative instruments. SFAS No. 161 is effective for us in the first quarter of fiscal year 2009.

**Note 3: Fair Value**

SFAS No. 157 defines fair value as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and liabilities required or permitted to be recorded at fair value, we consider the principal or most advantageous market in which we would transact and we consider assumptions that market participants would use when pricing the asset or liability, such as inherent risk, transfer restrictions, and risk of nonperformance.

***Fair Value Hierarchy***

SFAS No. 157 establishes a fair value hierarchy that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. SFAS No. 157 establishes three levels of inputs that may be used to measure fair value:

*Level 1* - Quoted prices in active markets for identical assets or liabilities.

Level 1 assets and liabilities consist of money market fund deposits and certain of our marketable debt and equity instruments, including equity instruments offsetting deferred compensation, that are traded in an active market with sufficient volume and frequency of transactions.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

*Level 2* - Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets with insufficient volume or infrequent transactions (less active markets); or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 2 assets include certain of our marketable debt and equity instruments with quoted market prices that are traded in less active markets or priced using a quoted market price for similar instruments. Level 2 assets also include marketable equity instruments with security-specific restrictions that would transfer to the buyer, marketable debt instruments priced using indicator prices which represent non-binding market consensus prices that can be corroborated by observable market quotes, as well as derivative contracts and debt instruments priced using inputs that are observable in the market or can be derived principally from or corroborated by observable market data.

Marketable debt instruments in this category generally include commercial paper, bank time deposits, repurchase agreements for fixed-income instruments, and a majority of floating-rate notes, corporate bonds, and municipal bonds.

*Level 3* - Unobservable inputs to the valuation methodology that are significant to the measurement of fair value of assets or liabilities.

Level 3 assets and liabilities include marketable debt instruments, non-marketable equity investments, derivative contracts, and company issued debt whose values are determined using inputs that are both unobservable and significant to the values of the instruments being measured. Level 3 assets also include marketable debt instruments that are priced using indicator prices that we were unable to corroborate with observable market quotes.

Marketable debt instruments in this category generally include asset-backed securities and certain of our floating-rate notes, corporate bonds, and municipal bonds.

***Assets/Liabilities Measured at Fair Value on a Recurring Basis***

Assets and liabilities measured at fair value on a recurring basis, excluding accrued interest components, consisted of the following types of instruments as of March 29, 2008:

<b>(In Millions)</b>	Fair Value Measurements at Reporting Date Using			
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Balance
<b>Assets</b>				
Commercial paper	\$ —	\$ 3,784	\$ —	\$ 3,784
Bank time deposits	—	1,257	—	1,257
Money market fund deposits	1,852	—	—	1,852
Floating-rate notes	13	6,203	1,227	7,443
Corporate bonds	176	565	202	943
Asset-backed securities	—	—	1,781	1,781
Municipal bonds	—	317	5	322
Marketable equity securities	38	492	—	530
Equity instruments offsetting deferred compensation	454	—	—	454
Derivative assets	—	226	20	246
<b>Total assets measured at fair value</b>	<b>\$ 2,533</b>	<b>\$ 12,844</b>	<b>\$ 3,235</b>	<b>\$ 18,612</b>
<b>Liabilities</b>				
Long-term debt	\$ —	\$ —	\$ 128	\$ 128
Derivative liabilities	—	160	32	192
<b>Total liabilities measured at fair value</b>	<b>\$ —</b>	<b>\$ 160</b>	<b>\$ 160</b>	<b>\$ 320</b>

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

Assets and liabilities measured and recorded at fair value on a recurring basis, excluding accrued interest components, were presented on our consolidated condensed balance sheets as of March 29, 2008 as follows:

(In Millions)	Fair Value Measurements at Reporting Date Using			Total Balance
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
<b>Assets</b>				
Cash and cash equivalents	\$ 1,784	\$ 3,888	\$ —	\$ 5,672
Short-term investments	49	4,053	889	4,991
Trading assets	517	1,223	1,076	2,816
Other current assets	—	221	—	221
Marketable equity securities	38	492	—	530
Other long-term investments	145	2,962	1,250	4,357
Other long-term assets	—	5	20	25
<b>Total assets measured at fair value</b>	<b>\$ 2,533</b>	<b>\$ 12,844</b>	<b>\$ 3,235</b>	<b>\$ 18,612</b>
<b>Liabilities</b>				
Other accrued liabilities	\$ —	\$ 139	\$ 32	\$ 171
Long-term debt	—	—	128	128
Other long-term liabilities	—	21	—	21
<b>Total liabilities measured at fair value</b>	<b>\$ —</b>	<b>\$ 160</b>	<b>\$ 160</b>	<b>\$ 320</b>

When available, we use observable market prices to value our marketable debt instruments. Approximately 55% of our balance of marketable debt instruments that are measured at fair value on a recurring basis and classified as Level 2 instruments were classified as such due to the usage of observable market prices in less active markets. When observable market prices are not available, we price our marketable debt instruments using non-binding market prices that are corroborated by observable market data, quoted market prices for similar instruments, or discounted cash flow techniques. Discounted cash flow techniques use observable market inputs, such as LIBOR-based yield curves, currency spot and forward rates, and credit ratings. Approximately 40% of our balance of marketable debt instruments that are measured at fair value on a recurring basis and classified as Level 2 instruments were classified as such due to the usage of discounted cash flow techniques and approximately 5% due to the usage of quoted market prices for similar instruments.

The majority of the balance of our available-for-sale marketable equity securities were classified as Level 2 instruments, primarily due to the adjustments to the fair values of these securities arising from transfer restrictions.

Our marketable debt instruments that are measured at fair value on a recurring basis and classified as Level 3 instruments were classified as such due to the lack of observable market quotes to corroborate the indicator prices.

All of our long-term debt was eligible for the fair value option allowed by SFAS No. 159; however, we only elected the fair value option for the 2007 Arizona bonds. In connection with the 2007 Arizona bonds, we entered into an interest rate swap agreement which effectively converts the fixed rate on these bonds to a floating LIBOR-based rate. As a result, changes in the fair value of this debt are primarily offset by changes in the fair value of the interest rate swap agreement, without the need to apply the hedge accounting provisions of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities" (SFAS No. 133). We elected not to adopt SFAS No. 159 for our 2005 Arizona bonds since the bonds were carried at amortized cost and were not eligible to apply the hedge accounting provisions of SFAS No. 133 due to the use of non-derivative hedging instruments. The 2007 Arizona bonds are included within the long-term debt balance on our consolidated condensed balance sheets. As of March 29, 2008 and December 29, 2007, no other long-term debt instruments were similar to the instrument for which we have elected SFAS No. 159 fair value treatment.



**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

The fair value of the 2007 Arizona bonds approximated its carrying value at the time we elected the fair value option under SFAS No. 159. As such, we did not record a cumulative-effect adjustment to the beginning balance of retained earnings or to the deferred tax liability. As of March 29, 2008, the difference between the fair value and the contractual principal balance of the 2007 Arizona bonds was \$3 million. The fair value of the 2007 Arizona bonds was determined using inputs that are observable in the market or that can be derived from or corroborated by observable market data as well as unobservable inputs. Gains and losses on the 2007 Arizona bonds are recorded in interest and other, net on the consolidated condensed statements of income. We capitalize interest associated with the 2007 Arizona bonds. We add capitalized interest to the cost of qualified assets and amortize it over the estimated useful lives of the assets.

The table below presents a reconciliation for all assets and liabilities measured at fair value on a recurring basis, excluding accrued interest components, using significant unobservable inputs (Level 3) for the three months ended March 29, 2008:

(In Millions)	Fair Value Measurements Using Significant Unobservable Inputs (Level 3)						
	Short-term investments	Trading assets	Other long-term investments	Other long-term assets	Other accrued liabilities	Long-term debt	Total Gains (Losses)
<b>Three Months Ended March 29, 2008</b>							
Beginning balance	\$ 798	\$ 1,004	\$ 771	\$ 18	\$ (15)	\$ (125)	
Transfers from long-term to short-term investments	224	—	(224)	—	—	—	
Total gains or losses (realized and unrealized):							
Included in earnings	—	(19)	(8)	10	(17)	(3)	(37)
Included in other comprehensive income	2	—	(14)	—	—	—	(12)
Purchases, sales, issuances and settlements, net	(63)	76	213	(8)	—	—	
Transfers in/(out) of Level 3	(72)	15	512	—	—	—	
<b>Ending balance</b>	<b>\$ 889</b>	<b>\$ 1,076</b>	<b>\$ 1,250</b>	<b>\$ 20</b>	<b>\$ (32)</b>	<b>\$ (128)</b>	

The amount of total gains or losses for the period included in earnings attributable to the changes in unrealized gains or losses relating to assets and liabilities still held as of March 29, 2008

\$ —    \$ (19)    \$ (8)    \$ 10    \$ (17)    \$ (3)    \$ (37)

Gains and losses (realized and unrealized) included in earnings for the three months ended March 29, 2008 are reported in interest and other, net and gains (losses) on equity investments, net on the consolidated condensed statements of income, as follows:

(In Millions)	Level 3	
	Interest and other, net	Gains (losses) on equity investments, net
Total gains or (losses) included in earnings for the three months ended March 29, 2008	\$ (39)	\$ 2
Change in unrealized gains or (losses) relating to assets and liabilities still held as of March 29, 2008	\$ (39)	\$ 2

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

*Assets/Liabilities Measured at Fair Value on a Nonrecurring Basis*

The below table presents gains (losses) recorded during the three months ended March 29, 2008 for financial instruments that are recorded at fair value on a nonrecurring basis:

<i>(In Millions)</i>	Total balance as of March 29, 2008	Fair Value Measured Using			Total Gains (Losses)
		Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
Non-marketable equity investments	\$ 3	\$ —	\$ —	\$ 3	\$ (33)
<b>Total gains (losses) for assets held as of March 29, 2008</b>					<b>\$ (33)</b>
Gains (losses) for assets no longer held					\$ —
<b>Total gains (losses) for nonrecurring measurement</b>					<b>\$ (33)</b>

A portion of our non-marketable equity investments were measured at fair value in the first quarter of 2008 due to events or circumstances we identified that significantly impacted the fair value of our investments, resulting in other-than-temporary impairment charges. These fair value measurements were calculated using financial metrics and ratios of comparable public companies and were classified as Level 3 instruments, as they use unobservable inputs and require management judgment due to the absence of quoted market prices, inherent lack of liquidity, and the long-term nature of such investments. The valuation of our non-marketable equity investments also takes into account the movements of the equity and venture capital markets, recent financing activities by the investees, changes in the interest rate environment, the investee's capital structure, liquidation preferences for the investee's capital, and other economic variables.

**Note 4: Employee Equity Incentive Plans**

Our equity incentive plans are broad-based, long-term retention programs intended to attract and retain talented employees and align stockholder and employee interests.

Under the 2006 Equity Incentive Plan, 294 million shares of common stock have been made available for issuance as equity awards to employees and non-employee directors. A maximum of 168 million of these shares can be awarded as non-vested shares (restricted stock) or non-vested share units (restricted stock units). As of March 29, 2008, 225 million shares remained available for future grant under the 2006 Plan.

The 2006 Stock Purchase Plan allows eligible employees to purchase shares of our common stock at 85% of the average of the high and low price of our common stock on specific dates. Under the 2006 Stock Purchase Plan, 240 million shares of common stock were made available for issuance through August 2011. As of March 29, 2008, 199 million shares are available for issuance under the 2006 Stock Purchase Plan.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

**Share-Based Compensation**

Share-based compensation recognized for the three months ended March 29, 2008 was \$219 million (\$284 million for the three months ended March 31, 2007).

We use the Black-Scholes option pricing model to estimate the fair value of options granted under our equity incentive plans and rights to acquire stock granted under our stock purchase plan. We based the weighted average estimated values of employee stock option grants and rights granted under the stock purchase plan, as well as the weighted average assumptions used in calculating these values, on estimates at the date of grant, as follows:

	<u>Stock Options</u>		<u>Stock Purchase Plan</u>	
	<u>Three Months Ended</u>		<u>Three Months Ended</u>	
	<u>March 29, 2008</u>	<u>March 31, 2007</u>	<u>March 29, 2008</u>	<u>March 31, 2007</u>
Estimated values	\$ 6.61	\$ 5.78	\$ 5.10	\$ 4.72
Expected life (in years)	7.2	6.5	.5	.5
Risk-free interest rate	3.5%	4.8%	2.2%	5.3%
Volatility	38%	26%	35%	26%
Dividend yield	2.6%	2.2%	2.4%	2.1%

The expected life for options granted in the first quarter of 2008 and 2007 reflects grants given to key officers and other senior-level employees with delayed vesting periods.

We estimate the fair value of restricted stock unit awards using the value of our common stock on the date of grant, reduced by the present value of dividends expected to be paid on our common stock prior to vesting. We based the weighted average estimated values of restricted stock unit grants, as well as the weighted average assumptions that we used in calculating the fair value, on estimates at the date of grant, as follows:

	<u>Three Months Ended</u>	
	<u>March 29, 2008</u>	<u>March 31, 2007</u>
Estimated values	\$ 18.13	\$ 19.33
Risk-free interest rate	2.8%	4.9%
Dividend yield	2.6%	2.2%

**Stock Option Awards**

Activity with respect to outstanding stock options for the first quarter of 2008 was as follows:

<u>(In Millions, Except Per Share Amounts)</u>	<u>Number of Shares</u>	<u>Weighted Average Exercise Price</u>	<u>Aggregate Intrinsic Value<sup>1</sup></u>
<b>December 29, 2007</b>	<b>665.9</b>	<b>\$ 27.76</b>	
Grants	1.4	\$ 19.63	
Exercises	(10.9)	\$ 19.27	\$ 30
Cancellations and forfeitures	(9.6)	\$ 29.77	
<b>March 29, 2008</b>	<b>646.8</b>	<b>\$ 27.85</b>	
Options exercisable as of:			
December 29, 2007	528.2	\$ 29.04	
March 29, 2008	514.6	\$ 29.15	

<sup>1</sup> Represents the difference between the exercise price and the value of Intel stock at the time of exercise.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

**Restricted Stock Unit Awards**

Activity with respect to outstanding restricted stock units for the first quarter of 2008 was as follows:

<i>(In Millions, Except Per Share Amounts)</i>	Number of Shares	Weighted Average Grant- Date Fair Value	Aggregate Fair Value <sup>1</sup>
<b>December 29, 2007</b>	<b>51.1</b>	<b>\$ 20.24</b>	
Granted	0.6	\$ 18.13	
Vested <sup>2</sup>	(0.1)	\$ 19.62	\$ 3
Forfeited	(1.3)	\$ 19.83	
<b>March 29, 2008</b>	<b>50.3</b>	<b>\$ 20.22</b>	

<sup>1</sup> Represents the value of Intel stock on the date that the restricted stock units vest. On the grant date, the fair value for these vested awards was \$2 million.

<sup>2</sup> The number of restricted stock units vested includes shares that we withheld on behalf of employees to satisfy the statutory tax withholding requirements.

**Stock Purchase Plan**

Employees purchased 14.9 million shares in the first quarter of 2008 (15.0 million shares in the first quarter of 2007) for \$258 million (\$234 million in the first quarter of 2007) under the 2006 Stock Purchase Plan.

**Note 5: Earnings Per Share**

We computed our basic and diluted earnings per common share as follows:

<i>(In Millions, Except Per Share Amounts)</i>	Three Months Ended	
	March 29, 2008	March 31, 2007
<b>Net income</b>	<b>\$ 1,443</b>	<b>\$ 1,636</b>
<b>Weighted average common shares outstanding — basic</b>	<b>5,787</b>	<b>5,777</b>
Dilutive effect of employee equity incentive plans	41	46
Dilutive effect of convertible debt	51	51
<b>Weighted average common shares outstanding — diluted</b>	<b>5,879</b>	<b>5,874</b>
<b>Basic earnings per common share</b>	<b>\$ 0.25</b>	<b>\$ 0.28</b>
<b>Diluted earnings per common share</b>	<b>\$ 0.25</b>	<b>\$ 0.28</b>

We computed our basic earnings per common share using net income and the weighted average number of common shares outstanding during the period. We computed diluted earnings per common share using net income and the weighted average number of common shares outstanding plus potentially dilutive common shares outstanding during the period. Potentially dilutive common shares include the assumed exercise of outstanding stock options, assumed vesting of outstanding restricted stock units, assumed issuance of stock under the stock purchase plan using the treasury stock method, and the assumed conversion of debt using the if-converted method.

For the first quarter of 2008, we excluded 490 million outstanding weighted average stock options (566 million for the first quarter of 2007) from the calculation of diluted earnings per common share because the exercise prices of these stock options were greater than or equal to the average market value of the common shares. These options could be included in the calculation in the future if the average market value of the common shares increases and is greater than the exercise price of these options.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

**Note 6: Common Stock Repurchase Program**

We have an ongoing authorization, amended in November 2005, from our Board of Directors to repurchase up to \$25 billion in shares of our common stock in open market or negotiated transactions. During the first quarter of 2008, we repurchased 121.9 million shares of common stock at a cost of \$2.5 billion (19.2 million shares at a cost of \$400 million during the first quarter of 2007). We have repurchased and retired 3.1 billion shares at a cost of approximately \$62 billion since the program began in 1990. As of March 29, 2008, \$12.0 billion remained available for repurchase under the existing repurchase authorization.

**Note 7: Inventories**

Inventories at the end of each period were as follows:

<u>(In Millions)</u>	<u>March 29, 2008</u>	<u>Dec. 29, 2007</u>
Raw materials	\$ 545	\$ 507
Work in process	1,361	1,460
Finished goods	1,366	1,403
<b>Total inventories</b>	<b>\$ 3,272</b>	<b>\$ 3,370</b>

**Note 8: Trading Assets**

Trading assets at fair value at the end of each period were as follows:

<u>(In Millions)</u>	<u>March 29, 2008</u>	<u>Dec. 29, 2007</u>
Marketable debt instruments	\$ 2,362	\$ 2,074
Equity instruments offsetting deferred compensation	454	492
<b>Total trading assets</b>	<b>\$ 2,816</b>	<b>\$ 2,566</b>

**Note 9: Gains (Losses) on Equity Investments, Net**

Gains (losses) on equity investments, net included:

<u>(In Millions)</u>	<u>Three Months Ended</u>	
	<u>March 29, 2008</u>	<u>March 31, 2007</u>
Impairment charges	\$ (35)	\$ (36)
Gains on sales	19	15
Other, net	(43)	50
<b>Total gains (losses) on equity investments, net</b>	<b>\$ (59)</b>	<b>\$ 29</b>

Our equity method gains (losses), primarily from our investment in Clearwire Corporation, are included in the table above under "other, net."

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

**Note 10: Interest and Other, Net**

The components of interest and other, net were as follows:

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
Interest income	\$ 198	\$ 184
Interest expense	—	(3)
Other, net	(30)	(12)
<b>Total interest and other, net</b>	<b>\$ 168</b>	<b>\$ 169</b>

**Note 11: Comprehensive Income**

The components of total comprehensive income were as follows:

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
Net income	\$ 1,443	\$ 1,636
Change in net unrealized holding gain on available-for-sale investments	(292)	(34)
Change in net unrealized holding gain on derivatives	103	(1)
<b>Total comprehensive income</b>	<b>\$ 1,254</b>	<b>\$ 1,601</b>

The components of accumulated other comprehensive income (loss), net of tax, at the end of each period were as follows:

(In Millions)	March 29, 2008	Dec. 29, 2007
	Accumulated net unrealized holding gain on available-for-sale investments	\$ 32
Accumulated net unrealized holding gain on derivatives	203	100
Accumulated net prior service costs	(13)	(13)
Accumulated net actuarial losses	(148)	(148)
Accumulated transition obligation	(2)	(2)
<b>Total accumulated other comprehensive income (loss)</b>	<b>\$ 72</b>	<b>\$ 261</b>

In the table above, accumulated net unrealized holding gain on available-for-sale investments included \$112 million as of March 29, 2008 related to our investment in VMware, Inc., net of tax of \$66 million (\$364 million, net of tax of \$212 million as of December 29, 2007).

**Note 12: Divestitures**

During the first quarter of 2008, we completed the divestiture of a portion of the telecommunication related assets of our optical platform division that were included in the Digital Enterprise Group operating segment. Consideration for the divestiture was approximately \$85 million, including \$75 million in cash and common shares of the acquiring company with an estimated value of \$10 million at the date of purchase. We entered into an agreement with the acquiring company to provide certain manufacturing and transition services for a limited time. Approximately 45 employees of our optical products business became employees of the acquiring company. As a result of this divestiture, we recorded a net gain of \$39 million within interest and other, net.

On March 30, 2008 (subsequent to the first quarter), we completed the divestiture of our NOR flash memory business. We exchanged certain NOR flash memory assets and certain assets associated with our phase change memory initiatives with Numonyx B.V. for a note receivable with a contractual amount of \$144 million and a 45.1% ownership interest in the form of common stock. We retain certain rights to intellectual property included within the divestiture. Approximately 2,500 employees of our NOR flash memory business became employees of Numonyx. Our investment in Numonyx will be recorded within other long-term assets and accounted for under the equity method of accounting, and our proportionate share of the income or loss will be recognized on a one quarter lag.

STMicroelectronics N.V. contributed certain assets to Numonyx for a note receivable with a contractual amount of \$156 million and a 48.6% ownership interest in the form of common stock. Francisco Partners L.P. paid \$150 million in cash in exchange for the remaining 6.3% ownership interest in the form of preferred stock and a note receivable with a contractual amount of \$20 million. In addition, they received a preferential payout right to the investments of Intel and STMicroelectronics.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS – Unaudited (Continued)**

Additional terms of this divestiture include:

- We are leasing a facility in Israel to Numonyx for a period of up to 24 years under a fully paid up-front operating lease.
- We entered into supply agreements that involve the manufacture and the assembly and test of NOR flash memory products for Numonyx through the end of the year.
- We entered into a transition services agreement which involves providing certain services such as information technology, supply chain, finance support, and other services to Numonyx for up to one year. Payments from Numonyx will partially offset the related cost of sales and operating expenses.
- Numonyx entered into an unsecured, four year senior credit facility of up to \$550 million, comprised of a \$450 million term loan and a \$100 million revolving loan. Intel and STMicroelectronics have each provided the lenders with a guarantee of 50% of Numonyx’s payment obligations under the senior credit facility. A demand on our guarantee can be triggered if Numonyx is unable to meet its obligations under the credit facility. Acceleration of Numonyx’s obligations under the credit facility could be triggered by a monetary default of Numonyx or, in certain circumstances, can be triggered by events affecting the creditworthiness of STMicroelectronics. This guarantee is within the scope of FASB Interpretation No. 45, “Guarantor’s Accounting and Disclosure Requirement for Guarantees, Including Indirect Guarantees of Indebtedness of Others.” The maximum amount of future undiscounted payments we could be required to make under the guarantee is \$275 million plus accrued interest, expenses of the lenders, and penalties.
- Our notes receivable mentioned above are subordinated to the senior credit facility and Francisco Partners’ preferential payout, and will be deemed extinguished in liquidation events that generate proceeds insufficient to repay the senior credit facility and Francisco Partners’ preferential payout.

As of March 29, 2008, approximately \$460 million of NOR flash memory assets were classified as held for sale within other current assets. The disposal group consisted primarily of property, plant and equipment and inventory. We ceased recording depreciation on property, plant and equipment that we classified as held for sale beginning in the second quarter of 2007. In the first quarter of 2008, we recorded additional asset impairment charges of \$275 million related to assets of our NOR flash memory business. See “Note 14: Restructuring and Asset Impairment Charges” for further discussion.

**Note 13: Identified Intangible Assets**

We classify identified intangible assets within other long-term assets on the consolidated condensed balance sheets. Identified intangible assets consisted of the following as of March 29, 2008:

(In Millions)	Gross Assets	Accumulated Amortization	Net
Intellectual property assets	\$ 1,164	\$ (479)	\$ 685
Acquisition-related developed technology	19	(4)	15
Other intangible assets	340	(137)	203
<b>Total identified intangible assets</b>	<b>\$ 1,523</b>	<b>\$ (620)</b>	<b>\$ 903</b>

Identified intangible assets consisted of the following as of December 29, 2007:

(In Millions)	Gross Assets	Accumulated Amortization	Net
Intellectual property assets	\$ 1,158	\$ (438)	\$ 720
Acquisition-related developed technology	19	(3)	16
Other intangible assets	360	(136)	224
<b>Total identified intangible assets</b>	<b>\$ 1,537</b>	<b>\$ (577)</b>	<b>\$ 960</b>

All of our identified intangible assets are subject to amortization. We recorded the amortization of identified intangible assets on the consolidated condensed statements of income as follows: intellectual property assets generally in cost of sales; acquisition-related developed technology in marketing, general and administrative, and other intangible assets as either a reduction of revenue or marketing, general and administrative. The amortization expense was as follows:

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
Intellectual property assets	\$ 41	\$ 44
Acquisition-related developed technology	\$ 1	\$ 1
Other intangible assets	\$ 21	\$ 19

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

Based on identified intangible assets recorded as of March 29, 2008, and assuming the underlying assets are not impaired in the future, we expect amortization expense for each period to be as follows:

(In Millions)	2008 <sup>1</sup>	2009	2010	2011	2012
Intellectual property assets	\$ 120	\$ 134	\$ 123	\$ 72	\$ 61
Acquisition-related developed technology	\$ 4	\$ 4	\$ 4	\$ 3	\$ —
Other intangible assets	\$ 71	\$ 122	\$ 10	\$ —	\$ —

<sup>1</sup> Reflects the remaining nine months of fiscal year 2008.

**Note 14: Restructuring and Asset Impairment Charges**

In the third quarter of 2006, management approved several actions as part of a restructuring plan designed to improve operational efficiency and financial results. Restructuring and asset impairment charges for the first quarter of 2008 and the first quarter of 2007 were as follows:

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
Employee severance and benefit arrangements	\$ 54	\$ 21
Asset impairments	275	54
<b>Total restructuring and asset impairment charges</b>	<b>\$ 329</b>	<b>\$ 75</b>

During the first quarter of 2008, we incurred \$275 million in asset impairment charges related to assets which were sold subsequent to quarter end in conjunction with the divestiture of our NOR flash memory business. The impairment charges were determined using the revised fair value that we received upon completion of the divestiture, less selling costs. The lower fair value was primarily a result of a decline in the outlook for the flash memory market segment. See “Note 12: Divestitures” for further discussion. In the first quarter of 2007, we incurred \$54 million in asset impairment charges as a result of softer than anticipated market conditions related to the Colorado Springs, Colorado facility, which has been placed for sale.

Restructuring and asset impairment activity for the first quarter of 2008 was as follows:

(In Millions)	Employee Severance and Benefits	Asset Impairments	Total
<b>Accrued restructuring balance as of December 29, 2007</b>	<b>\$ 127</b>	<b>\$ —</b>	<b>\$ 127</b>
Additional accruals	57	275	332
Adjustments	(3)	—	(3)
Cash payments	(83)	—	(83)
Non-cash settlements	—	(275)	(275)
<b>Accrued restructuring balance as of March 29, 2008</b>	<b>\$ 98</b>	<b>\$ —</b>	<b>\$ 98</b>

We recorded the additional accruals, net of adjustments, as restructuring and asset impairment charges. The remaining accrual as of March 29, 2008 was related to severance benefits that we recorded as a current liability within accrued compensation and benefits.

From the third quarter of 2006 through the first quarter of 2008, we incurred a total of \$1.4 billion in restructuring and asset impairment charges related to this plan. These charges include a total of \$581 million related to employee severance and benefit arrangements due to the termination of approximately 10,400 employees, and \$819 million in asset impairment charges. We may incur additional restructuring charges in the future for employee severance and benefit arrangements, and facility-related or other exit activities.



**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

**Note 15: Ventures**

Our investment in IM Flash Technologies, LLC (IMFT) was \$2.2 billion and our investment in IM Flash Singapore, LLP (IMFS) was \$249 million as of March 29, 2008 (\$2.2 billion in IMFT and \$146 million in IMFS as of December 29, 2007). These amounts represent our maximum exposure to loss. Our investments in these ventures are classified within other long-term assets. Subject to certain conditions, we agreed to contribute up to approximately \$1.4 billion for IMFT and up to approximately \$1.7 billion for IMFS in the three years following the initial capital contributions. Of these amounts, as of March 29, 2008, our remaining commitment was approximately \$175 million for IMFT and approximately \$1.4 billion for IMFS. Additionally, our portion of IMFT costs, primarily related to product purchases and start-up, was approximately \$250 million during the first quarter of 2008 (approximately \$160 million during the first quarter of 2007). The amount due to IMFT for product purchases and services provided was approximately \$185 million as of March 29, 2008 and was approximately \$130 million as of December 29, 2007.

**Note 16: Contingencies**

***Legal Proceedings***

We are currently a party to various legal proceedings, including those noted in this section. While management presently believes that the ultimate outcome of these proceedings, individually and in the aggregate, will not materially harm the company's financial position, cash flows, or overall trends in results of operations, litigation is subject to inherent uncertainties, and unfavorable rulings could occur. An unfavorable ruling could include money damages or, in cases for which injunctive relief is sought, an injunction prohibiting us from selling one or more products at all or in particular ways. Were an unfavorable ruling to occur, our business or results of operations could be materially harmed.

*Advanced Micro Devices, Inc. (AMD) and AMD International Sales & Service, Ltd. v. Intel Corporation and Intel Kabushiki Kaisha, and Related Consumer Class Actions and Government Investigations*

In June 2005, AMD filed a complaint in the United States District Court for the District of Delaware alleging that we and our Japanese subsidiary engaged in various actions in violation of the Sherman Act and the California Business and Professions Code, including providing secret and discriminatory discounts and rebates and intentionally interfering with prospective business advantages of AMD. AMD's complaint seeks unspecified treble damages, punitive damages, an injunction, and attorneys' fees and costs. Subsequently, AMD's Japanese subsidiary also filed suits in the Tokyo High Court and the Tokyo District Court against our Japanese subsidiary, asserting violations of Japan's Antimonopoly Law and alleging damages in each suit of approximately \$55 million, plus various other costs and fees. At least 82 separate class actions have been filed in the U.S. District Courts for the Northern District of California, Southern District of California, District of Idaho, District of Nebraska, District of New Mexico, District of Maine, and the District of Delaware, as well as in various California, Kansas, and Tennessee state courts. These actions generally repeat AMD's allegations and assert various consumer injuries, including that consumers in various states have been injured by paying higher prices for computers containing our microprocessors. All of the federal class actions and the Kansas and Tennessee state court class actions have been or will be consolidated by the Multidistrict Litigation Panel to the District of Delaware. All California class actions have been consolidated to the Superior Court of California in Santa Clara County. We dispute AMD's claims and the class-action claims, and intend to defend the lawsuits vigorously.

We are also subject to certain antitrust regulatory inquiries. In 2001, the European Commission (EC) commenced an investigation regarding claims by AMD that we used unfair business practices to persuade clients to buy our microprocessors. The EC sent us a Statement of Objections in July 2007 alleging that certain Intel marketing and pricing practices amounted to an abuse of a dominant position that infringed European law. The Statement recognized that such allegations were preliminary, not final, conclusions. We responded to those allegations in January 2008 and a hearing was held March 11–12, 2008. We intend to contest this matter vigorously in the administrative procedure, which has now begun and, if necessary, in European courts. In February 2008, the EC initiated an inspection of documents at our Feldkirchen, Germany offices, and the EC staff has recently served requests for additional information. We are cooperating with the investigation.

In June 2005, we received an inquiry from the Korea Fair Trade Commission (KFTC) requesting documents from our Korean subsidiary related to marketing and rebate programs that we entered into with Korean PC manufacturers. In September 2007, the KFTC served us an Examination Report alleging that sales to two customers during parts of 2002–2005 violated Korea's Monopoly Regulation and Fair Trade Act. In December 2007, we submitted our written response to the KFTC. We anticipate that there will be several pre-hearing conferences and formal hearings before the KFTC makes its determination. We intend to contest this matter vigorously in the administrative procedure and, if necessary, in Korean courts.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

In January 2008, we received a subpoena from the Attorney General of the State of New York requesting documents and information to assist in its investigation of whether there have been any agreements or arrangements establishing or maintaining a monopoly in the sale of microprocessors in violation of federal or New York antitrust laws.

We intend to cooperate with and respond to these investigations as appropriate and we expect that these matters will be acceptably resolved.

*Barbara's Sales, et al. v. Intel Corporation, Gateway Inc., Hewlett-Packard Co. and HPDirect, Inc.*

In June 2002, various plaintiffs filed a lawsuit in the Third Judicial Circuit Court, Madison County, Illinois, against Intel, Gateway Inc., Hewlett-Packard Company, and HPDirect, Inc. alleging that the defendants' advertisements and statements misled the public by suppressing and concealing the alleged material fact that systems containing Intel® Pentium® 4 processors are less powerful and slower than systems containing Intel® Pentium® III processors and a competitor's microprocessors. In July 2004, the court certified against us an Illinois-only class of certain end-use purchasers of certain Pentium 4 processors or computers containing these microprocessors. In January 2005, the court granted a motion filed jointly by the plaintiffs and Intel that stayed the proceedings in the trial court pending discretionary appellate review of the court's class certification order. In July 2006, the Illinois Appellate Court, Fifth District, vacated the trial court's class certification order. The Appellate Court instructed the trial court to reconsider whether California law should apply. However, in August 2006, the Illinois Supreme Court agreed to review the Appellate Court's decision. In November 2007, the Illinois Supreme Court issued its opinion finding in favor of Intel on two issues. First, on the issue of whether Illinois or California law applies to the claims of Illinois residents for goods purchased in Illinois, the Court found that Illinois law applies, rejecting the Appellate Court's finding of a nationwide class based on application of the California law. Second, on the issue of whether any class should be certified in this case at all, the Court held that no class should be certified, reversing the trial court's finding of an Illinois-only class based on Illinois law. The case was remanded to the trial court and on March 20, 2008 an order was entered dismissing the case with prejudice based on our motion to dismiss.

*Martin Smilow v. Craig R. Barrett et al. & Intel Corporation*

In February 2008, Martin Smilow, an Intel stockholder, filed a putative derivative action in the United States District Court for the District of Delaware against members of our Board of Directors. The complaint alleges generally that the Board allowed the company to violate antitrust and other laws, as described in AMD's antitrust lawsuits against us, and that those Board-sanctioned activities have harmed the company. The complaint repeats many of AMD's allegations and references various investigations by the European Community, Korean Fair Trade Commission, and others. In February 2008, a second plaintiff, Evan Tobias, filed a derivative suit in the same court against the Board containing many of the same allegations as in the Smilow suit. In March, all parties submitted a stipulation to the District Court whereby Smilow and Tobias agreed to file a single, consolidated complaint by May 2, 2008, and Intel and the Board agreed to respond within 30 days. We deny the allegations and intend to defend the lawsuit vigorously.

**Note 17: Operating Segment Information**

Our operating segments include the Digital Enterprise Group, Mobility Group, NAND Products Group, Flash Memory Group, Digital Home Group, Digital Health Group, and Software and Solutions Group. Subsequent to the end of the first quarter, we completed the divestiture of our NOR flash memory assets to Numonyx. We entered into supply and transition service agreements to provide products, services, and support to Numonyx. Revenues and expenses resulting from these agreements will be recognized by the Flash Memory Group operating segment. See "Note 12: Divestitures" for further discussion.

The Chief Operating Decision Maker (CODM), as defined by SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information" (SFAS No. 131), is our President and Chief Executive Officer (CEO). The CODM allocates resources to and assesses the performance of each operating segment using information about its revenue and operating income (loss) before interest and taxes.

We report the financial results of the following operating segments:

- *Digital Enterprise Group.* Includes microprocessors and related chipsets and motherboards designed for the desktop and enterprise computing market segments; communications infrastructure components such as network processors, communications boards, and embedded processors; wired connectivity devices; and products for network and server storage.
- *Mobility Group.* Includes microprocessors and related chipsets designed for the notebook market segment, wireless connectivity products, and products designed for the ultra-mobile market segment.

The NAND Products Group, Flash Memory Group, Digital Home Group, Digital Health Group, and Software and Solutions Group operating segments do not meet the quantitative thresholds for reportable segments as defined by SFAS No. 131 and are included within the all other category.

**INTEL CORPORATION**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — Unaudited (Continued)**

We have sales and marketing, manufacturing, finance, and administration groups. Expenses for these groups are generally allocated to the operating segments, and the expenses are included in the operating results reported below. Revenue for the all other category is primarily related to the sale of NOR flash memory products, NAND flash memory products, and microprocessors and related chipsets by the Digital Home Group. The all other category includes certain corporate-level operating expenses and charges. These expenses and charges include:

- a portion of profit-dependent bonuses and other expenses not allocated to the operating segments;
- results of operations of seed businesses that support our initiatives;
- acquisition-related costs, including amortization and any impairment of acquisition-related intangibles and goodwill; and
- amounts included within restructuring and asset impairment charges.

With the exception of goodwill, we do not identify or allocate assets by operating segment, nor does the CODM evaluate operating segments using discrete asset information. Operating segments do not record inter-segment revenue, and, accordingly, there is none to be reported. We do not allocate interest and other income, interest expense, or taxes to operating segments. Although the CODM uses operating income to evaluate the segments, operating costs included in one segment may benefit other segments. Except as discussed above, the accounting policies for segment reporting are the same as for Intel as a whole.

Subsequent to the end of the first quarter, we completed a reorganization that transferred the revenue and costs associated with the Digital Home Group's consumer PC components business to the Digital Enterprise Group. After the reorganization, the Digital Home Group will focus on the consumer electronics components business. The operating results for the reporting period that ended March 29, 2008 were managed under the organizational structure that existed prior to the reorganization; therefore, the operating segment information below is presented under the previous organizational structure.

Segment information is summarized as follows:

(In Millions)	Three Months Ended	
	March 29, 2008	March 31, 2007
<b>Net revenue</b>		
<b>Digital Enterprise Group</b>		
Microprocessor revenue	\$ 4,123	\$ 3,561
Chipset, motherboard, and other revenue	1,175	1,193
	<u>5,298</u>	<u>4,754</u>
<b>Mobility Group</b>		
Microprocessor revenue	2,726	2,441
Chipset and other revenue	943	866
	<u>3,669</u>	<u>3,307</u>
<b>All other</b>	<u>706</u>	<u>791</u>
<b>Total net revenue</b>	<u>\$ 9,673</u>	<u>\$ 8,852</u>
<b>Operating income (loss)</b>		
Digital Enterprise Group	\$ 1,722	\$ 931
Mobility Group	1,185	1,382
All other	(845)	(638)
<b>Total operating income</b>	<u>\$ 2,062</u>	<u>\$ 1,675</u>

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

Our Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) is provided in addition to the accompanying consolidated condensed financial statements and notes to assist readers in understanding our results of operations, financial condition, and cash flows. MD&A is organized as follows:

- *Overview.* Discussion of our business and overall analysis of financial and other highlights affecting the company in order to provide context for the remainder of MD&A.
- *Strategy.* Overall strategy and the strategy for our operating segments.
- *Critical Accounting Estimates.* Accounting estimates that we believe are most important to understanding the assumptions and judgments incorporated in our reported financial results and forecasts.
- *Results of Operations.* An analysis of our financial results comparing the first quarter of 2008 to the first quarter of 2007.
- *Liquidity and Capital Resources.* An analysis of changes in our balance sheets and cash flows, and discussion of our financial condition.
- *Business Outlook.* Our forecasts for selected data points for the second quarter of 2008 and the 2008 fiscal year.

The various sections of this MD&A contain a number of forward-looking statements. Words such as "expects," "goals," "plans," "believes," "continues," "may," and variations of such words and similar expressions are intended to identify such forward-looking statements. In addition, any statements that refer to projections of our future financial performance, our anticipated growth and trends in our businesses, and other characterizations of future events or circumstances are forward-looking statements. Such statements are based on our current expectations and could be affected by the uncertainties and risk factors described throughout this filing and particularly in the "Business Outlook" section (see also "Risk Factors" in Part II, Item 1A of this Form 10-Q). Our actual results may differ materially, and these forward-looking statements do not reflect the potential impact of any divestitures, mergers, acquisitions, or other business combinations that had not been completed as of April 28, 2008.

### Overview

Our goal is to be the preeminent provider of semiconductor chips and platforms for the worldwide digital economy. Our primary component-level products include microprocessors, chipsets, and flash memory.

We entered 2008 with what we believe is our strongest combination of products, silicon technology, and manufacturing leadership in our history. We are introducing new technologies and product lines designed for a number of new product categories, such as mobile internet devices (MIDs), netbooks, and nettops.

In the NAND flash memory market segment, we are facing oversupply issues and a weak pricing environment. In response to these changes in the NAND flash memory market segment, the production timing of our IM Flash Singapore, LLP (IMFS) joint venture with Micron Technology, Inc. has been pushed out. While revenue is expected to continue to be impacted by the weakened NAND pricing environment in 2008, we expect the impact to be offset by the strength in our microprocessor business and reduction in product costs. As a result, the midpoint of our gross margin outlook for 2008 has remained unchanged at 57%.

Subsequent to the close of the quarter, we divested our NOR flash memory assets to Numonyx B.V. We will continue to have revenue associated with a supply agreement we have with Numonyx. This divestiture is expected to result in a negative impact on revenue and a benefit to our gross margin percentage during the remainder of 2008 as our NOR flash memory products have a lower gross margin than our microprocessors.

Net revenue, gross margin, operating income, and net income for the first quarter of 2008, the fourth quarter of 2007 and the first quarter of 2007 were as follows:

(In Millions)	Q1 2008	Q4 2007	Q1 2007
Net revenue	\$ 9,673	\$ 10,712	\$ 8,852
Gross margin	\$ 5,207	\$ 6,226	\$ 4,432
Operating income	\$ 2,062	\$ 3,047	\$ 1,675
Net income	\$ 1,443	\$ 2,271	\$ 1,636

The first quarter of 2008, compared to the first quarter of 2007, showed higher revenue and unit sales of our microprocessor products, and in particular our server microprocessors, which had record revenue for a quarter. We also saw growth in our server chipset unit sales, which increased in the first quarter of 2008 as compared to both the first and the fourth quarter of 2007. Our server microprocessor revenue benefited from a strong ramp of our quad-core multi-processor server products on 45-nm process technology. However, the benefits obtained from our microprocessor results in the first quarter of 2008, were offset by the weak NAND flash memory pricing environment.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

The trend of mobile microprocessor unit growth outpacing the growth in desktop microprocessor units has accelerated and while we previously believed a crossover would occur in 2009, we now believe this crossover will occur within 2008. As demand increases for mobile products, system price points expand to include new lower priced mobile microprocessors, including low power, cost-optimized processors. We expect continuing erosion in average selling prices for mobile microprocessors due to the increase in demand at these lower price points. Prices for mobile microprocessors are higher than comparable desktop microprocessors; therefore the shift in our mix to mobile microprocessors has a positive effect on our results.

Gross margin as a percentage of revenue was lower in the first quarter of 2008 as compared to the fourth quarter of 2007 as a result of lower microprocessor unit sales, chipset inventory write-offs, higher microprocessor unit costs as we transition to products using our 45-nm process technology, and higher start-up costs associated with that transition. More recently introduced products tend to have higher costs with the initial overall development and production ramp. However, our product costs are expected to decline in the second quarter and decline further in the second half of 2008.

In the fourth quarter of 2007, we recorded restructuring and asset impairment charges of \$234 million, of which \$85 million related to our NOR flash memory assets. In the first quarter of 2008, we recorded \$329 million of restructuring and asset impairment charges, including an additional asset impairment charge of \$275 million related to the NOR flash memory assets sold to Numonyx subsequent to quarter close. Our outlook for Q2 2008 is for additional restructuring and asset impairment charges of \$250 million. We expect charges as a result of our restructuring program announced in 2006 to decline in the second half of the year.

Our tax rate has increased, as compared to prior periods, primarily as a result of a higher proportion of profits being generated in higher-tax jurisdictions. We expect the higher tax rate will continue until we ramp additional production in lower tax jurisdictions.

From a financial condition perspective, we ended the first quarter of 2008 with an investment portfolio valued at \$17.7 billion, consisting of cash and cash equivalents, fixed-income trading assets, and short- and long-term investments. Substantially all of our investments in debt instruments are with A/A2 or better rated issuers, and the substantial majority of the issuers are rated AA-/Aa2 or better. See "Liquidity and Capital Resources" for additional details on our investment portfolio.

During the first quarter of 2008, we repurchased \$2.5 billion of stock through our stock repurchase program and paid \$739 million to stockholders as dividends. In January our Board of Directors increased our quarterly cash dividend amount by 13%, from \$0.1125 to \$0.1275 per common share. In March, the Board of Directors increased our quarterly cash dividend payout by an additional 10% and declared a dividend of \$0.14 per common share to be paid in June.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

### Strategy

Our goal is to be the preeminent provider of semiconductor chips and platforms for the worldwide digital economy. As part of our overall strategy to compete in each relevant market segment, we use our core competencies in the design and manufacture of integrated circuits, as well as our financial resources, global presence, and brand recognition. We believe that we have the scale, capacity, and global reach to establish new technologies and respond to customers' needs quickly.

Some of our key focus areas are listed below:

- *Customer Orientation.* Our strategy focuses on developing our next generation of products based on the needs and expectations of our customers. In turn, our products help enable the design and development of new form factors and usage models for businesses and consumers. We offer platforms with ingredients designed and configured to work together to provide an optimized user computing solution compared to ingredients that are used separately.
- *Energy-Efficient Performance.* We believe that users of computing and communications systems and devices want improved overall and energy-efficient performance. Improved overall performance can include faster processing performance and other capabilities such as multithreading and multitasking. Performance can also be improved through enhanced connectivity, security, manageability, reliability, ease of use, and interoperability among devices. Improved energy-efficient performance involves balancing the addition of these and other types of improved performance factors with lower power consumption. Our microprocessors have one, two, or four processor cores, and we continue to develop processors with an increasing number of cores, which enable improved multitasking and energy efficiency.
- *Design and Manufacturing Technology Leadership.* Our strategy for developing microprocessors with improved performance is to synchronize the introduction of a new microarchitecture with improvements in silicon process technology. We plan to introduce a new microarchitecture approximately every two years and ramp the next generation of silicon process technology in the intervening years. This coordinated schedule allows us to develop and introduce new products based on a common microarchitecture quickly, without waiting for the next generation of silicon process technology. We refer to this as our "tick-tock" technology development cadence.
- *Strategic Investments.* We make equity investments in companies around the world to further our strategic objectives and to support our key business initiatives, including investments through our Intel Capital program. We generally focus on investing in companies and initiatives to stimulate growth in the digital economy, create new business opportunities for Intel, and expand global markets for our products. Our current investment focus areas include those that we believe help to enable mobile wireless devices, advance the digital home, enhance the digital enterprise, advance high-performance communications infrastructures, and develop the next generation of silicon process technologies. Our focus areas tend to develop and change over time due to rapid advancements in technology.
- *Business Environment and Software.* We plan to continue to cultivate new businesses and work to encourage the industry to offer products that take advantage of the latest market trends and usage models. We also provide development tools and support to help software developers create software applications and operating systems that take advantage of our platforms. We frequently participate in industry initiatives designed to discuss and agree upon technical specifications and other aspects of technologies that could be adopted as standards by standards-setting organizations. In addition, we work collaboratively with other companies to protect digital content and the consumer. Lastly, through our Software and Solutions Group (SSG), we help enable and advance the computing ecosystem by developing value-added software products and services.

We believe that the proliferation of the Internet, including user demand for premium content and rich media, is the primary driver of the need for greater performance in PCs and servers. A growing number of older PCs are increasingly incapable of handling the tasks that users are demanding, such as streaming video, uploading photos, and online gaming. As these tasks become even more demanding and require more computing power, we believe that users will need and want to buy new PCs to perform everyday tasks on the Internet. We also believe that increased Internet traffic is creating a need for greater server infrastructure, including server products optimized for energy-efficient performance.

The trend of mobile microprocessor unit growth outpacing the growth in desktop microprocessor units has accelerated and, while we previously believed a crossover would occur in 2009, we now believe this crossover will occur within 2008. We believe that the demand for mobile microprocessors will result in the increased development of products with form factors and uses that require low-power and low-cost microprocessors.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

With our research and development (R&D) expenditures, we are investing in areas in which we believe the application of highly integrated Intel® architecture provides growth opportunities, such as scalable, high-performance visual computing solutions that integrate vivid graphics and supercomputing performance for scientific, financial services, and other compute-intensive applications. In addition, our design and manufacturing technology leadership, including the recent introduction of our new 45nm process technology, allows us to develop low-cost, low-power microprocessors for new uses and form factors. In Q1 2008, we introduced the Intel Atom™ brand as a new family of low-power 45nm based microprocessors. We believe that these new microprocessors will give us the ability to extend Intel architecture and drive growth in new market segments, including a growing number of products that require processors specifically designed for embedded solutions; MIDs, a new category of small, mobile consumer devices enabling a PC-like Internet experience; consumer electronics devices, which will deliver media and services to set-top boxes and TVs over broadband Internet connections; and a new category of affordable Internet-focused notebooks (netbooks) and desktops (nettops). We believe that the common elements for products in these new market segments are low power, low cost, and the ability to access the Internet. These new microprocessors will generally be offered at lower price points than our other microprocessors.

### *Strategy by Operating Segment*

Subsequent to the end of the first quarter, we completed a reorganization that transferred the revenue and costs associated with the Digital Home Group's consumer PC components business to the Digital Enterprise Group. After the reorganization, the Digital Home Group will focus on the consumer electronics components business. The strategy by operating segment presented below is based on the new organizational structure.

Our **Digital Enterprise Group** (DEG) offers computing and communications products for businesses, service providers, and consumers. DEG products are incorporated into desktop computers, enterprise computer servers, workstations, and products that make up the infrastructure for the Internet. We also offer products for embedded designs, such as industrial equipment, point-of-sale systems, panel PCs, automotive information/entertainment systems, and medical equipment. Within DEG, our largest market segments are in desktop and enterprise computing. Our strategy for the desktop computing market segment is to offer products that provide increased manageability, security, and energy-efficient performance while at the same time lowering total cost of ownership for businesses. In the desktop computing market segment, we also focus on the design of components for high-end enthusiast PC's and mainstream PC's with rich audio and video capabilities. Our strategy for the enterprise computing market segment is to offer products that provide energy-efficient performance, ease of use, manageability, reliability, and security for entry-level to high-end servers and workstations.

The strategy for our **Mobility Group** is to offer notebook PC products designed to improve performance, battery life, and wireless connectivity, as well as to allow for the design of smaller, lighter, and thinner form factors. We are also increasing our focus on notebooks designed for the business environment by offering products that provide increased manageability and security, and we continue to invest in the build-out of WiMAX. For the ultra-mobile market segment, we offer energy-efficient products that are designed primarily for mobile processing of digital content and Internet access, and we are developing new products to support this evolving market segment, including products for MIDs and ultra-mobile PCs.

The strategy for our **NAND Products Group** is to offer advanced NAND flash memory products, focusing on system-level applications such as solid-state drives. Additionally, we offer NAND products used in digital audio players and memory cards. In support of our strategy to provide advanced flash memory products, we continue to focus on the development of innovative products designed to address the needs of customers for reliable, non-volatile, low-cost, high-density memory.

Beginning in the second quarter of 2008, the **Flash Memory Group** provides products, services and support to Numonyx as part of the supply and transition service agreements. See "Note 12: Divestitures" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q.

The strategy for our **Digital Home Group** is to offer products and solutions for use in consumer electronics devices designed to access and share Internet, broadcast, optical media, and personal content through a variety of linked digital devices within the home. We are focusing on the design of components for consumer electronic devices such as digital TVs, high-definition media players, and set-top boxes.

The strategy for our **Digital Health Group** is to design and deliver technology-enabled products and explore global business opportunities in healthcare information technology, healthcare research, and productivity, as well as personal healthcare. In support of this strategy, we are focusing on the design of technology solutions and platforms for the digital hospital and consumer/home health products.

The strategy for our **Software and Solutions Group** is to promote Intel architecture as the platform of choice for software and services. SSG works with the worldwide software and services ecosystem by providing software products, engaging with developers, and driving strategic software investments.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

### Critical Accounting Estimates

The methods, estimates, and judgments that we use in applying our accounting policies have a significant impact on the results that we report in our financial statements. Some of our accounting policies require us to make difficult and subjective judgments, often as a result of the need to make estimates regarding matters that are inherently uncertain. Our most critical accounting estimates include:

- the valuation of non-marketable equity investments, which impacts net gains (losses) on equity investments when we record impairments;
- the assessment of recoverability of long-lived assets, which primarily impacts gross margin or operating expenses when we record asset impairments or accelerate their depreciation;
- the recognition and measurement of current and deferred income taxes (including the measurement of uncertain tax positions), which impact our provision for taxes;
- the valuation of inventory, which impacts gross margin; and
- the valuation and recognition of share-based compensation, which impact gross margin; R&D expenses; and marketing, general and administrative expenses.

Below, we discuss these policies further, as well as the estimates and judgments involved. We also have other policies that we consider key accounting policies, such as those for revenue recognition, including the deferral of revenue on sales to distributors; however, these policies typically do not require us to make estimates or judgments that are difficult or subjective.

### Non-Marketable Equity Investments

We regularly invest in the non-marketable equity instruments of private companies, which range from early-stage companies that are often still defining their strategic direction to more mature companies with established revenue streams and business models. The carrying value of our non-marketable equity investment portfolio, excluding equity derivatives, totaled \$3.6 billion as of March 29, 2008 (\$3.4 billion as of December 29, 2007) and included our investment in IM Flash Technologies, LLC (IMFT) of \$2.2 billion (\$2.2 billion as of December 29, 2007). Our non-marketable equity investments are classified in other long-term assets on the consolidated condensed balance sheets.

Non-marketable equity investments are inherently risky, and a number of these companies are likely to fail. Their success is dependent on product development, market acceptance, operational efficiency, and other factors. In addition, depending on their future prospects and on market conditions, they may not be able to raise additional funds when needed or they may receive lower valuations, with less favorable investment terms than in previous financings, and our investments would likely become impaired.

We review our investments quarterly for indicators of impairment; however, for non-marketable equity investments, the impairment analysis requires significant judgment to identify events or circumstances that would significantly harm the fair value of the investment. The indicators that we use to identify those events or circumstances include:

- the investee's revenue and earnings trends relative to predefined milestones and overall business prospects;
- the technological feasibility of the investee's products and technologies;
- the general market conditions in the investee's industry or geographic area, including adverse regulatory or economic changes;
- factors related to the investee's ability to remain in business, such as the investee's liquidity, debt ratios, and the rate at which the investee is using its cash; and
- the investee's receipt of additional funding at a lower valuation.

Investments that we identify as having an indicator of impairment are subject to further analysis to determine if the investment is other than temporarily impaired, in which case we write down the investment to its estimated fair value. We measure fair value using financial metrics and ratios of comparable public companies, or a discounted cash flow technique. Beginning in the first quarter of 2008, the assessment of fair value is based on the provisions of Statement of Financial Accounting Standards (SFAS) No. 157, "Fair Value Measurements" (SFAS No. 157). Non-marketable investments that are considered impaired are classified as Level 3 instruments (see "Note 3: Fair Value" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q), as they use unobservable inputs and require management judgment due to the absence of quoted market prices, inherent lack of liquidity, and the long-term nature of such investments. The valuation of our non-marketable equity investments also takes into account movements of the equity and venture capital markets, recent financing activities by the investees, changes in the interest rate environment, the investee's capital structure, liquidation preferences for the investee's capital, and other economic variables. See "Note 3: Fair Value" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q for further discussion on the adoption of SFAS No. 157.



## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Approximately \$3 million of our non-marketable equity investments as of March 29, 2008 were measured at fair value on a nonrecurring basis due to the recording of other-than-temporary impairment charges. Other-than-temporary impairments of non-marketable equity investments were \$33 million in the first quarter of 2008. These impairments represented most of the carrying value of the impaired non-marketable equity investments. Over the past 12 quarters, including the first quarter of 2008, impairments of non-marketable equity investments have averaged \$27 million per quarter (ranging from \$10 million to \$44 million per quarter).

### *Long-Lived Assets*

We assess the impairment of long-lived assets when events or changes in circumstances indicate that the carrying value of the assets or the asset grouping may not be recoverable. Factors that we consider in deciding when to perform an impairment review include significant under-performance of a business or product line in relation to expectations, significant negative industry or economic trends, and significant changes or planned changes in our use of the assets. Recoverability of assets that will continue to be used in our operations is measured by comparing the carrying amount of the asset grouping to our estimate of the related total future undiscounted net cash flows. If an asset grouping's carrying value is not recoverable through the related undiscounted cash flows, the asset grouping is considered to be impaired. The impairment is measured by comparing the difference between the asset grouping's carrying amount and its fair value, based on the best information available, including market prices or discounted cash flow analysis.

Impairments of long-lived assets are determined for groups of assets related to the lowest level of identifiable independent cash flows. Due to our asset usage model and the interchangeable nature of our semiconductor manufacturing capacity, we must make subjective judgments in determining the independent cash flows that can be related to specific asset groupings. In addition, as we make manufacturing process conversions and other factory planning decisions, we must make subjective judgments regarding the remaining useful lives of assets, primarily process-specific semiconductor manufacturing tools and building improvements. When we determine that the useful lives of assets are shorter than we had originally estimated, we accelerate the rate of depreciation over the assets' new, shorter useful lives. Over the past 12 quarters, including the first quarter of 2008, impairments and accelerated depreciation of long-lived assets have ranged between \$1 million and \$320 million per quarter. The restructuring related asset impairments have ranged between zero and \$317 million per quarter since the program began in the third quarter of 2006. Over the past 12 quarters, other asset impairments have ranged between \$1 million and \$26 million per quarter.

Long-lived assets such as goodwill, intangible assets, and property, plant, and equipment, are considered non-financial assets, and are only measured at fair value when indicators of impairment exist. Therefore, the accounting and disclosure provisions of SFAS No. 157 will not be effective for these assets until the first quarter of 2009. See "Note 2: Recent Accounting Pronouncements and Accounting Changes" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q for further discussion.

### *Income Taxes*

We must make certain estimates and judgments in determining income tax expense for financial statement purposes. These estimates and judgments occur in the calculation of tax credits, benefits, and deductions, and in the calculation of certain tax assets and liabilities, which arise from differences in the timing of recognition of revenue and expense for tax and financial statement purposes, as well as the interest and penalties related to uncertain tax positions. Significant changes to these estimates may result in an increase or decrease to our tax provision in a subsequent period.

We must assess the likelihood that we will be able to recover our deferred tax assets. If recovery is not likely, we must increase our provision for taxes by recording a valuation allowance against the deferred tax assets that we estimate will not ultimately be recoverable. We believe that we will ultimately recover a substantial majority of the deferred tax assets recorded on our consolidated condensed balance sheets. However, should there be a change in our ability to recover our deferred tax assets, our tax provision would increase in the period in which we determined that the recovery was not likely.

The calculation of our tax liabilities involves dealing with uncertainties in the application of complex tax regulations. In accordance with Financial Accounting Standards Board (FASB) Interpretation No. 48, "Accounting for Uncertainty in Income Taxes—an interpretation of SFAS No. 109" (FIN 48), and related guidance, we recognize liabilities for uncertain tax positions based on a two-step process. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that 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 requires us to estimate and measure the tax benefit as the largest amount that is more than 50% likely to be realized upon ultimate settlement. It is inherently difficult and subjective to estimate such amounts, as we have to determine the probability of various possible outcomes. We reevaluate these uncertain tax positions on a quarterly basis. This evaluation is based on factors including, but not limited to, changes in facts or circumstances, changes in tax law, effectively settled issues under audit, and new audit activity. Such a change in recognition or measurement would result in the recognition of a tax benefit or an additional charge to the tax provision.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

### Inventory

The valuation of inventory requires us to estimate obsolete or excess inventory as well as inventory that is not of saleable quality. The determination of obsolete or excess inventory requires us to estimate the future demand for our products. The demand forecast is included in the development of our short-term manufacturing plans to enable consistency between inventory valuation and build decisions. Product-specific facts and circumstances reviewed in the inventory valuation process include a review of the customer base, the stage of the product life cycle of our products, consumer confidence, and customer acceptance of our products, as well as an assessment of the selling price in relation to the product cost. If our demand forecast for specific products is greater than actual demand and we fail to reduce manufacturing output accordingly, or if we fail to forecast the demand accurately, we could be required to write off inventory, which would negatively impact our gross margin.

### Share-Based Compensation

Total share-based compensation during the first quarter of 2008 was \$219 million (\$284 million during the first quarter of 2007). Determining the appropriate fair-value model and calculating the fair value of employee stock options and rights to purchase shares under stock purchase plans at the date of grant require judgment. We use the Black-Scholes option pricing model to estimate the fair value of these share-based awards consistent with the provisions of SFAS No. 123 (revised 2004), "Share-Based Payment" (SFAS No. 123(R)). Option pricing models, including the Black-Scholes model, also require the use of input assumptions, including expected volatility, expected life, expected dividend rate, and expected risk-free rate of return. The assumptions for expected volatility and expected life are the two assumptions that significantly affect the grant date fair value. Changes in the expected dividend rate and expected risk-free rate of return do not significantly impact the calculation of fair value, and determining these inputs is not highly subjective.

We use implied volatility based on freely traded options in the open market, as we believe implied volatility is more reflective of market conditions and a better indicator of expected volatility than historical volatility. In determining the appropriateness of implied volatility, we considered the following:

- the volume of market activity of freely traded options, and determined that there was sufficient market activity;
- the ability to reasonably match the input variables of freely traded options to those of options granted by the company, such as the date of grant and the exercise price, and determined that the input assumptions were comparable; and
- the term of freely traded options used to derive implied volatility, which is generally one to two years, and determined that the length of term was sufficient.

Due to significant differences in the vesting terms and contractual life of current option grants compared to the majority of our historical grants, management does not believe that our historical share option exercise data provides us with sufficient evidence to estimate expected life. Therefore, we use the simplified method of calculating expected life described in the SEC's Staff Accounting Bulletin 107 (SAB 107), as amended by Staff Accounting Bulletin 110 (SAB 110). We will continue to use the simplified method until we have the historical data necessary to provide a reasonable estimate of expected life, in accordance with SAB 107, as amended by SAB 110.

Higher volatility and longer expected lives result in an increase to share-based compensation determined at the date of grant. The effect that changes in the volatility and the expected life would have on the weighted average fair value of option awards and the increase in total fair value during the first quarter of 2008 is as follows:

	Q1 2008	
	Weighted Average Fair Value Per Share	Increase in Total Fair Value <sup>1</sup> (in millions)
As reported	\$ 6.61	
Hypothetical:		
Increase expected volatility by 5 percentage points <sup>2</sup>	\$ 7.36	\$ 1
Increase expected life by 1 year	\$ 6.87	\$ —

<sup>1</sup> Amounts represent the hypothetical increase in the total fair value determined at the date of grant, which would be amortized over the service period, net of estimated forfeitures.

<sup>2</sup> For example, an increase from 38% reported volatility for Q1 2008 to a hypothetical 43% volatility. Since the adoption of SFAS No. 123(R), reported volatility has ranged from 25% to 38%.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

In addition, SFAS No. 123(R) requires us to develop an estimate of the number of share-based awards that will be forfeited due to employee turnover. Quarterly adjustments in the estimated forfeiture rates can have a significant effect on reported share-based compensation, as we recognize the cumulative effect of the rate adjustments for all expense amortization after January 1, 2006 in the period the estimated forfeiture rates are adjusted. We estimate and adjust forfeiture rates based on a quarterly review of recent forfeiture activity and expected future employee turnover. If a revised forfeiture rate is higher than the previously estimated forfeiture rate, we make an adjustment that will result in a decrease to the expense recognized in the financial statements. If a revised forfeiture rate is lower than the previously estimated forfeiture rate, we make an adjustment that will result in an increase to the expense recognized in the financial statements. These adjustments affect our gross margin; R&D expenses; and marketing, general and administrative expenses. The effect of forfeiture adjustments in the first quarter of 2008 was not significant. We record cumulative adjustments to the extent that the related expense is recognized in the financial statements, beginning with implementation of SFAS No. 123(R) in the first quarter of 2006. Adjustments in the estimated forfeiture rates could also cause changes in the amount of expense that we recognize in future periods.

### Results of Operations - First Quarter of 2008 Compared to First Quarter of 2007

The following table sets forth certain consolidated condensed statements of income data as a percentage of net revenue for the periods indicated:

<u>(Dollars in Millions, Except Per Share Amounts)</u>	<u>Q1 2008</u>		<u>Q1 2007</u>	
	<u>Dollars</u>	<u>% of Net Revenue</u>	<u>Dollars</u>	<u>% of Net Revenue</u>
<b>Net revenue</b>	<b>\$ 9,673</b>	<b>100.0%</b>	<b>\$ 8,852</b>	<b>100.0%</b>
Cost of sales	4,466	46.2%	4,420	49.9%
<b>Gross margin</b>	<b>5,207</b>	<b>53.8%</b>	<b>4,432</b>	<b>50.1%</b>
Research and development	1,467	15.2%	1,400	15.8%
Marketing, general and administrative	1,349	13.9%	1,282	14.5%
Restructuring and asset impairment charges	329	3.4%	75	0.9%
<b>Operating income</b>	<b>2,062</b>	<b>21.3%</b>	<b>1,675</b>	<b>18.9%</b>
Gains (losses) on equity investments, net	(59)	(0.6)%	29	0.4%
Interest and other, net	168	1.7%	169	1.9%
<b>Income before taxes</b>	<b>2,171</b>	<b>22.4%</b>	<b>1,873</b>	<b>21.2%</b>
Provision for taxes	728	7.5%	237	2.7%
<b>Net income</b>	<b>\$ 1,443</b>	<b>14.9%</b>	<b>\$ 1,636</b>	<b>18.5%</b>
<b>Diluted earnings per share</b>	<b>\$ 0.25</b>		<b>\$ 0.28</b>	

The following table sets forth information of geographic regions for the periods indicated:

<u>(Dollars In Millions)</u>	<u>Q1 2008</u>		<u>Q1 2007</u>	
	<u>Revenue</u>	<u>% of Total</u>	<u>Revenue</u>	<u>% of Total</u>
Asia-Pacific	\$ 4,788	50%	\$ 4,432	50%
Americas	2,016	21%	1,727	20%
Europe	1,863	19%	1,722	19%
Japan	1,006	10%	971	11%
<b>Total</b>	<b>\$ 9,673</b>	<b>100%</b>	<b>\$ 8,852</b>	<b>100%</b>

Our net revenue for Q1 2008 was \$9.7 billion, an increase of 9% compared to Q1 2007. The increase was primarily due to significantly higher microprocessor unit sales, which were partially offset by lower microprocessor average selling prices.

Higher NAND flash memory revenue was partially offset by lower NOR flash memory revenue, which declined \$112 million to \$330 million in Q1 2008 due to lower NOR flash memory volume and average selling prices. Higher NAND flash memory revenue was due to an increase in unit sales associated with the ramp of our NAND flash memory business.

Revenue in the Americas region increased by 17% compared to Q1 2007. In addition, revenue in the Asia-Pacific and Europe regions each increased by 8% and revenue in the Japan region increased by 4% compared to Q1 2007. Revenue from both mature and emerging markets increased in Q1 2008 compared to Q1 2007. Most of the revenue growth in mature markets occurred in the Asia-Pacific and Americas regions. A majority of the increase in emerging markets occurred in the Europe region.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Our overall gross margin dollars for Q1 2008 were \$5.2 billion, an increase of \$775 million, or 17%, compared to Q1 2007. Our overall gross margin percentage increased to 53.8% in Q1 2008, from 50.1% in Q1 2007. The increase in gross margin percentage was primarily attributable to the gross margin percentage increase in the Digital Enterprise Group operating segment, partially offset by the gross margin percentage decline in the Mobility Group operating segment. We derived most of our overall gross margin dollars and operating profit in Q1 2008 and Q1 2007 from the sale of microprocessors in the Digital Enterprise Group and Mobility Group operating segments. See "Business Outlook" for a discussion of gross margin expectations.

### Digital Enterprise Group

The revenue and operating income for the Digital Enterprise Group (DEG) operating segment for Q1 2008 and Q1 2007 were as follows:

<u>(In Millions)</u>	<u>Q1 2008</u>	<u>Q1 2007</u>
Microprocessor revenue	\$ 4,123	\$ 3,561
Chipset, motherboard, and other revenue	1,175	1,193
<b>Net revenue</b>	<b>\$ 5,298</b>	<b>\$ 4,754</b>
<b>Operating income</b>	<b>\$ 1,722</b>	<b>\$ 931</b>

Net revenue for the DEG operating segment increased by \$544 million, or 11%, in Q1 2008 compared to Q1 2007. Microprocessors within DEG include microprocessors designed for the desktop and enterprise computing market segments as well as embedded microprocessors. The increase in microprocessor revenue was due to higher enterprise unit sales, and to a lesser extent, higher desktop unit sales. This higher mix of enterprise microprocessor unit sales also had a positive impact on total average selling prices within the DEG operating segment. Chipset, motherboard, and other revenue was approximately flat, with lower motherboard unit sales offset by higher chipset revenue.

Operating income increased by \$791 million, or 85%, in Q1 2008 compared to Q1 2007. The increase in operating income was due to higher microprocessor revenue, and to a lesser extent, lower desktop microprocessor unit costs, lower factory underutilization charges of \$130 million, and lower start-up costs of \$150 million, primarily due to the completion of the startup phase and qualification for sale of our 45-nanometer process technology. These increases were partially offset by sales in Q1 2007 of desktop microprocessor inventory that had been previously written off.

### Mobility Group

The revenue and operating income for the Mobility Group (MG) operating segment for Q1 2008 and Q1 2007 were as follows:

<u>(In Millions)</u>	<u>Q1 2008</u>	<u>Q1 2007</u>
Microprocessor revenue	\$ 2,726	\$ 2,441
Chipset and other revenue	943	866
<b>Net revenue</b>	<b>\$ 3,669</b>	<b>\$ 3,307</b>
<b>Operating income</b>	<b>\$ 1,185</b>	<b>\$ 1,382</b>

Net revenue for the MG operating segment increased by \$362 million, or 11%, in Q1 2008 compared to Q1 2007. The increase in microprocessor revenue was due to significantly higher unit sales, partially offset by significantly lower average selling prices. The increase in chipset and other revenue was due to higher unit sales of chipsets, partially offset by lower revenue from sales of cellular baseband products. We are winding down the sales from the manufacturing agreement entered into as part of the divestiture of the cellular baseband products business.

Operating income decreased by \$197 million, or 14%, in Q1 2008 compared to Q1 2007. The decrease in operating income was primarily due to higher operating expenses related to process development and advertising. Higher chipset unit costs and sales in Q1 2007 of mobility microprocessor inventory that had been previously written off were more than offset by lower microprocessor unit costs and higher microprocessor and chipset revenue.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)**

**Operating Expenses**

Operating expenses for Q1 2008 and Q1 2007 were as follows:

<i>(In Millions)</i>	<u>Q1 2008</u>	<u>Q1 2007</u>
Research and development	\$ 1,467	\$ 1,400
Marketing, general and administrative	\$ 1,349	\$ 1,282
Restructuring and asset impairment charges	\$ 329	\$ 75

*Research and Development.* R&D spending increased \$67 million, or 5%, in Q1 2008 compared to Q1 2007. This increase was primarily due to higher product development costs as we began development of our 32nm process technology.

*Marketing, General and Administrative.* Marketing, general and administrative expenses increased \$67 million, or 5%, in Q1 2008 compared to Q1 2007. This increase was primarily due to general corporate and advertising expenses.

R&D along with marketing, general and administrative expenses were 29% of net revenue in Q1 2008 (30% of net revenue in Q1 2007).

*Restructuring and Asset Impairment Charges.* In Q3 2006, management approved several actions as part of a restructuring plan designed to improve operational efficiency and financial results. Restructuring and asset impairment charges for Q1 2008 and Q1 2007 were as follows:

<i>(In Millions)</i>	<u>Q1 2008</u>	<u>Q1 2007</u>
Employee severance and benefit arrangements	\$ 54	\$ 21
Asset impairment charges	275	54
<b>Total restructuring and asset impairment charges</b>	<b>\$ 329</b>	<b>\$ 75</b>

During Q1 2008, we incurred \$275 million in asset impairment charges related to assets which were sold subsequent to quarter end in conjunction with the divestiture of our NOR flash memory business. The impairment charges were determined using the revised fair value that we received upon completion of the divestiture, less selling costs. The lower fair value was primarily a result of a decline in the outlook for the flash memory market segment. See "Note 12: Divestitures" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q for further discussion. In Q1 2007, we incurred \$54 million in asset impairment charges as a result of softer than anticipated market conditions related to the Colorado Springs, Colorado facility, which has been placed for sale.

Restructuring and asset impairment activity for Q1 2008 was as follows:

<i>(In Millions)</i>	<u>Employee Severance and Benefits</u>	<u>Asset Impairments</u>	<u>Total</u>
<b>Accrued restructuring balance as of December 29, 2007</b>	<b>\$ 127</b>	<b>\$ —</b>	<b>\$ 127</b>
Additional accruals	57	275	332
Adjustments	(3)	—	(3)
Cash payments	(83)	—	(83)
Non-cash settlements	—	(275)	(275)
<b>Accrued restructuring balance as of March 29, 2008</b>	<b>\$ 98</b>	<b>\$ —</b>	<b>\$ 98</b>

We recorded the additional accruals, net of adjustments, as restructuring and asset impairment charges. The remaining accrual as of March 29, 2008 was related to severance benefits that we recorded as a current liability within accrued compensation and benefits.

From Q3 2006 through Q1 2008, we incurred a total of \$1.4 billion in restructuring and asset impairment charges related to this plan. These charges included a total of \$581 million related to employee severance and benefit arrangements due to the termination of approximately 10,400 employees, of which 8,700 employees had left the company as of March 29, 2008. A substantial majority of these employee terminations affected employees within manufacturing, information technology, and marketing. Of the employee severance and benefit charges incurred as of March 29, 2008, we had paid \$483 million. The restructuring and asset impairment charges also included \$819 million in asset impairment charges.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

We estimate that employee severance and benefit charges to date will result in gross annual savings of approximately \$1.0 billion, a portion of which we began to realize as early as Q3 2006. We are realizing these savings within marketing, general and administrative expenses, cost of sales, and R&D. Our outlook for Q2 2008 is for additional restructuring and asset impairment charges of \$250 million. We may incur additional restructuring charges in the future for employee severance and benefit arrangements, as well as facility-related or other exit activities.

### *Gains (Losses) on Equity Investments, Interest and Other, and Provision for Taxes*

Gains (losses) on equity investments, net; interest and other, net; and provision for taxes for Q1 2008 and Q1 2007 were as follows:

<u>(In Millions)</u>	<u>Q1 2008</u>	<u>Q1 2007</u>
Gains (losses) on equity investments, net	\$ (59)	\$ 29
Interest and other, net	\$ 168	\$ 169
Provision for taxes	\$ (728)	\$ (237)

Gains (losses) on equity investments, net, for Q1 2008 was a net loss of \$59 million compared to a net gain of \$29 million in Q1 2007. In Q1 2008, we recognized higher losses from our equity method investments, primarily from our investment in Clearwire Corporation. In addition, gains (losses) on equity investments, net, for Q1 2007 included a gain of \$39 million as a result of the initial public offering of Clearwire.

Interest and other, net was approximately flat at \$168 million in Q1 2008 compared to \$169 million in Q1 2007. Approximately \$60 million of fair value losses experienced in Q1 2008 on our trading assets were offset by a \$39 million gain on divestiture in Q1 2008 and higher interest income. Interest income was higher in Q1 2008 compared to Q1 2007 as a result of higher average investment balances, partially offset by lower interest rates.

For details of our net losses recognized within gains (losses) on equity investments, net and interest and other, net, attributable to financial instruments categorized as Level 3 under the SFAS No. 157 hierarchy, see "Note 3: Fair Value" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q and "Liquidity and Capital Resources" within MD&A.

Our effective income tax rate was 33.5% in Q1 2008 compared to 12.7% in Q1 2007. The tax rate for Q1 2008 was negatively impacted by a higher percentage of our profits being derived from higher-tax jurisdictions compared to Q1 2007 and the tax effects of asset impairment charges related to our NOR flash memory business. The rate for Q1 2007 was positively impacted by a settlement with the U.S. Internal Revenue Service (IRS).

### **Liquidity and Capital Resources**

Cash, short-term investments, fixed-income debt instruments included in trading assets, and debt at the end of each period were as follows:

<u>(Dollars in Millions)</u>	<u>March 29, 2008</u>	<u>Dec. 29, 2007</u>
Cash, short-term investments, and fixed income debt instruments included in trading assets	\$ 13,238	\$ 14,871
Short-term and long-term debt	\$ 2,179	\$ 2,122
Debt as % of stockholders' equity	5.4%	5.0%

In summary, our cash flows were as follows:

<u>(In Millions)</u>	<u>Three Months Ended</u>	
	<u>March 29, 2008</u>	<u>March 31, 2007</u>
Net cash provided by operating activities	\$ 2,215	\$ 1,552
Net cash used for investing activities	(921)	(3,216)
Net cash used for financing activities	(2,718)	(462)
<b>Net (decrease) in cash and cash equivalents</b>	<b>\$ (1,424)</b>	<b>\$ (2,126)</b>

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

### *Operating Activities*

Cash provided by operating activities is net income adjusted for certain non-cash items and changes in assets and liabilities. The increase in cash provided by operating activities for the first quarter of 2008 as compared to the first quarter of 2007 is due to a reduction in income taxes payable in Q1 2007 related to the settlement with the IRS, compared to an increase in taxes payable in the first quarter of 2008. Higher payments for employee bonuses were partially offset by lower trading asset activity. Trading asset activity decreased as our marketable debt instruments classified as trading assets in the first quarter of 2008 are included in investing activity due to the adoption of SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115" (SFAS No. 159).

Accounts receivable were higher compared to December 29, 2007, despite decreased revenue, due to a higher proportion of sales occurring at the end of the first quarter of 2008 and lower cash collections. For the first quarter of 2008, our two largest customers accounted for 38% of net revenue (34% for the first quarter of 2007), with each of these customers accounting for 19% of revenue. Additionally, these two largest customers accounted for 41% of net accounts receivable at March 29, 2008 (33% at March 31, 2007).

### *Investing Activities*

Investing cash flows consist primarily of capital expenditures and net investment purchases, maturities, and disposals, and purchases and investments in non-marketable and other investments. The decrease in cash used in investing activities in the first quarter of 2008, compared to the first quarter of 2007, was primarily due to an increase in maturities and a decrease in purchases of available-for-sale investments as well as lower capital spending. Purchases and investments in non-marketable equity investments were lower in the first quarter of 2008 due to an additional \$288 million investment in IMFT in the first quarter of 2007. In addition, due to the adoption of SFAS No. 159, purchases and maturities for marketable debt instruments classified as trading assets are included in investing activity for the first quarter of 2008.

### *Financing Activities*

Financing cash flows consist primarily of repurchases and retirement of common stock, payment of dividends to stockholders, and proceeds from sales of shares through employee equity incentive plans.

The higher cash used in financing activities in the first quarter of 2008, compared to the first quarter of 2007, was primarily due to an increase in repurchases and retirement of common stock. For the first quarter of 2008, we purchased 121.9 million shares of common stock as part of our common stock repurchase program at a cost of \$2.5 billion compared to 19.2 million shares for \$400 million in the first quarter of 2007. As of March 29, 2008, \$12.0 billion remained available for repurchase under the existing repurchase authorization of \$25 billion. We base our level of stock repurchases on internal cash management decisions, and this level may fluctuate. Our dividend payment was \$739 million in the first quarter of 2008, higher than the \$650 million paid in the same period of the prior year, due to an increase from \$0.1125 to \$0.1275 in quarterly cash dividends per common share effective for the first quarter of 2008. On March 19, 2008, our Board of Directors declared a cash dividend of \$0.14 per common share for the second quarter of 2008, which represents an additional 10% increase in our quarterly cash dividend amount. Additional financing activities for the first quarter of 2008 include proceeds from the sale of shares pursuant to employee equity incentive plans of \$468 million (\$586 million during the first quarter of 2007).

### *Liquidity*

Cash generated by operations is used as our primary source of liquidity. As of March 29, 2008, we also had an investment portfolio valued at \$17.7 billion, consisting of cash and cash equivalents, fixed-income trading assets, and short- and long-term investments. Substantially all of our investments in debt instruments are with A/A2 or better rated issuers, and the substantial majority of the issuers are rated AA-/Aa2 or better. As of March 29, 2008, \$11.6 billion of our portfolio had a remaining maturity of less than one year. During the first quarter of 2008, we did not recognize significant other-than-temporary impairments on our portfolio of available-for-sale investments. As of March 29, 2008, our cumulative unrealized losses, net of corresponding hedging activities, related to debt instruments classified as trading assets was \$58 million, of which a loss of \$35 million was recognized in the first quarter of 2008. As of March 29, 2008, our cumulative unrealized losses, net of corresponding hedging activities, related to debt instruments classified as available-for-sale was \$66 million. These unrealized losses were insignificant in relation to our total available-for-sale portfolio. Substantially all of our unrealized losses can be attributed to fair value fluctuations in an unstable credit environment.

Our portfolio includes \$1.8 billion of asset-backed securities as of March 29, 2008. Approximately one-third of these securities were collateralized by first-lien mortgages, and the remaining were collateralized by credit card debt, student loans, or auto loans. During the first quarter of 2008, our asset-backed securities experienced net unrealized fair value declines totaling \$37 million, of which \$34 million was recognized in our consolidated condensed statements of income. As of March 29, 2008, substantially all of our investments in asset-backed securities were rated AAA/Aaa, and the expected weighted average remaining maturity was less than two years.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

We have the intent and ability to hold our debt investments that have unrealized losses in accumulated other comprehensive income for a sufficient period of time to allow for recovery of the principal amounts invested.

We continually monitor the credit risk in our portfolio and mitigate our credit and interest rate exposures in accordance with the policies approved by our Board of Directors. We intend to continue to closely monitor future developments in the credit markets and make appropriate changes to our investment policy as deemed necessary. Based on our ability to liquidate our investment portfolio and our expected operating cash flows, we do not anticipate any liquidity constraints as a result of either the current credit environment or potential investment fair value fluctuations.

Another potential source of liquidity is authorized borrowings for commercial paper, of up to \$3.0 billion. There were no borrowings under our commercial paper program during the first quarter of 2008. Our commercial paper was rated A-1+ by Standard & Poor's and P-1 by Moody's as of March 29, 2008. We also have an automatic shelf registration statement on file with the SEC pursuant to which we may offer an indeterminate amount of debt, equity, and other securities.

We believe that we have the financial resources needed to meet business requirements for the next 12 months, including capital expenditures for the expansion or upgrading of worldwide manufacturing and assembly and test capacity, working capital requirements, the dividend program, potential stock repurchases, and potential acquisitions or strategic investments.

### Off-Balance-Sheet Arrangements

As of March 29, 2008, we did not have any significant off-balance-sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K. Subsequent to the end of the first quarter, we have guaranteed the repayment of \$275 million in principal of Numonyx's payment obligations under its senior credit facility, as well as accrued unpaid interest, expenses of the lenders and penalties. See "Note 12: Divestitures" in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q for further discussion.

### Fair Value

Beginning in the first quarter of 2008, the assessment of fair value for our financial instruments is based on the provisions of SFAS No. 157. SFAS No. 157 establishes a fair value hierarchy that is based on three levels of inputs and requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. When values are determined using inputs that are both unobservable and significant to the values of the instruments being measured, we classify those instruments as Level 3 under the SFAS No. 157 hierarchy.

As of March 29, 2008, our portfolio of financial instruments measured at fair value on a recurring basis included \$18.6 billion of assets and \$320 million of liabilities. Of these assets, \$3.2 billion (17%) were classified as Level 3 instruments. Of these liabilities, \$160 million (50%) were classified as Level 3 instruments. Assets classified as Level 3 included net transfers from Level 2 to Level 3 of approximately \$455 million in the first quarter of 2008. These assets primarily consisted of floating-rate notes and were transferred from Level 2 to Level 3 due to limited availability of observable market data with which to value or corroborate the value of our instruments. During the first quarter of 2008, we recognized an insignificant amount of losses on these instruments.

During the first quarter of 2008, the Level 3 assets and liabilities in our portfolio of financial instruments that are measured at fair value on a recurring basis experienced net unrealized fair value declines totaling \$49 million. Of these declines, \$37 million were recognized in our consolidated condensed statements of income. We believe the remaining \$12 million, included in other comprehensive income, represents a temporary decline in the fair value of available-for-sale investments. We did not experience any realized gains (losses) related to the Level 3 assets or liabilities in our portfolio.

As of March 29, 2008, investments in floating-rate notes and corporate bonds represented \$8.4 billion (45%) of our portfolio of assets measured at fair value on a recurring basis. Of these instruments, \$189 million were classified as Level 1 because their valuations were based on quoted prices for identical securities in active markets. Another \$6.8 billion were classified as Level 2 because their valuations were based on one of the following:

- quoted prices for identical securities from markets that are less active;
- quoted prices for similar securities;
- indicator prices corroborated by observable market quotes; or
- pricing models with all significant inputs derived from or corroborated by observable market data.

The remaining \$1.4 billion of these instruments, the substantial majority of them floating-rate notes, were classified as Level 3 because their valuations were based on either: non-binding broker quotes; or indicator prices that we were unable to corroborate with observable market quotes.



## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

As of March 29, 2008, investments in commercial paper, bank time deposits, and money market fund deposits represented \$6.9 billion (37%) of our portfolio of assets measured at fair value on a recurring basis. Of these instruments, all \$1.9 billion of the money market fund deposits were classified as Level 1. The remaining instruments were classified as Level 2 because their valuations were based on pricing models with all significant inputs derived from or corroborated by observable market data.

As of March 29, 2008, investments in asset-backed securities represented \$1.8 billion (10%) of our portfolio of assets measured at fair value on a recurring basis. All of these instruments were classified as Level 3, and substantially all of them were valued using indicator prices that we were not able to corroborate by observable market quotes due to the lack of visibility and/or liquidity in the market for asset-backed securities.

As of March 29, 2008, investments in marketable equity securities represented \$530 million (3%) of our portfolio of assets measured at fair value on a recurring basis. Of these instruments, \$38 million were classified as Level 1 because their valuations were based on quoted prices for identical securities in active markets. The remaining \$492 million were classified as Level 2 because their valuations were either based on quoted prices for identical securities in less active markets or adjusted for security specific restrictions. The fair values of two of these investments, VMware, Inc. (\$396 million) and Micron (\$90 million), constituted substantially all of the fair values of the marketable equity securities that we classified as Level 2. In measuring the fair value of our investment in VMware, our valuation reflects a discount from the quoted price of VMware's stock due to a transfer restriction. In measuring the fair value of our investment in Micron, our valuation reflects a discount from the quoted market price of Micron's stock due to our investment being in a form of rights exchangeable into unregistered Micron stock.

As of March 29, 2008, investments in equity securities offsetting deferred compensation represented \$454 million (2%) of our portfolio of assets measured at fair value on a recurring basis. All of these instruments were classified as Level 1 because their valuations were based on quoted prices for identical securities in active markets.

### Business Outlook

Our future results of operations and the topics of other forward-looking statements contained in this Form 10-Q, including this MD&A, involve a number of risks and uncertainties—in particular, our goals and strategies; new product introductions; plans to cultivate new businesses; pending divestitures; future economic conditions; revenue; pricing; gross margin and costs; capital spending; depreciation; R&D expenses; marketing, general and administrative expenses; potential impairment of investments; our effective tax rate; pending legal proceedings; net gains (losses) from equity investments; and interest and other, net. We are focusing on efforts to improve operational efficiency and reduce spending that may result in several actions that could have an impact on expense levels and gross margin. In addition to the various important factors discussed above, a number of other important factors could cause actual results to differ materially from our expectations. See the risks described in "Risk Factors" in Part II, Item 1A of this Form 10-Q.

Our expectations for the second quarter of 2008 are as follows:

- *Revenue:* between \$9.0 billion and \$9.6 billion, compared to first quarter revenue of \$9.7 billion. The expectation reflects a significant reduction in NOR flash memory revenue as a result of the Numonyx transaction.
- *Gross margin:* 56% plus or minus a couple points. The 56% midpoint is higher than our gross margin of 53.8% in the first quarter of 2008, primarily due to the NOR divestiture and lower chipset inventory write-offs.
- *Depreciation:* approximately \$1.1 billion.
- *Total spending:* spending on R&D, plus marketing, general and administrative expenses is expected to be between \$2.8 billion and \$2.9 billion, approximately flat compared to the first quarter of 2008.
- *Restructuring and asset impairment charges:* approximately \$250 million.
- *Net gains from equity investments and interest and other:* approximately \$75 million.
- *Tax rate:* approximately 33%. The estimated effective tax rate is based on tax law in effect as of March 29, 2008 and current expected income.

Our expectations for fiscal year 2008 are as follows:

- *Gross margin:* 57% plus or minus a few points.
- *Depreciation:* approximately \$4.4 billion, plus or minus \$100 million.
- *R&D spending:* approximately \$6.0 billion, slightly higher than our previous expectation of \$5.9 billion.
- *Marketing, general and administrative expenses:* approximately \$5.5 billion.
- *Capital spending:* approximately \$5.2 billion, plus or minus \$200 million.
- *Tax rate:* approximately 33% for the third and fourth quarters. The estimated effective tax rate is based on tax law in effect as of March 29, 2008 and current expected income.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

### Status of Business Outlook and Scheduled Business Update

We expect that our corporate representatives will, from time to time, meet privately with investors, investment analysts, the media, and others, and may reiterate the forward-looking statements contained in the "Business Outlook" section and elsewhere in this Form 10-Q, including any such statements that are incorporated by reference in this Form 10-Q. At the same time, we will keep this Form 10-Q and our most current business outlook publicly available on our Investor Relations web site at [www.intc.com](http://www.intc.com). The public can continue to rely on the business outlook published on the web site as representing our current expectations on matters covered, unless we publish a notice stating otherwise. The statements in the "Business Outlook" and other forward-looking statements in this Form 10-Q are subject to revision during the course of the year in our quarterly earnings releases and SEC filings and at other times.

From the close of business on May 30, 2008 until our quarterly earnings release is published, presently scheduled for July 15, 2008, we will observe a "quiet period." During the quiet period, the "Business Outlook" and other forward-looking statements first published in our Form 8-K filed on April 15, 2008, as reiterated or updated as applicable, in this Form 10-Q, should be considered historical, speaking as of prior to the quiet period only, and not subject to update. During the quiet period, our representatives will not comment on our business outlook or our financial results or expectations. The exact timing and duration of the routine quiet period, and any others that we utilize from time to time, may vary at our discretion.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The information in this section should be read in connection with the information on financial market risk related to changes in non-U.S. currency exchange rates in Part II, Item 7A, Quantitative and Qualitative Disclosures About Market Risk, in our Annual Report on Form 10-K for the year ended December 29, 2007. Estimates below are not necessarily indicative of future performance, and actual results may differ materially.

#### Interest Rates

We are exposed to interest rate risk related to our investment portfolio and debt issuances. The primary objective of our investments in debt instruments is to preserve principal while maximizing yields. To achieve this objective, the returns on all of our investments in debt instruments are generally based on three-month LIBOR, or, if the maturities are longer than three months, the returns are generally swapped into U.S. dollar three-month LIBOR-based returns. We considered the historical volatility of the interest rates experienced in prior years and the duration of our investment portfolio and debt issuances, and determined that it was reasonably possible that an adverse change of 80 basis points (0.80%), approximately 30% of the rate as of March 29, 2008 (17% of the rate as of December 29, 2007), could be experienced in the near term. A hypothetical 0.80% decrease in interest rates, after taking into account hedges and offsetting positions, would have resulted in a decrease in the fair value of our net investment position of approximately \$5 million as of March 29, 2008 and \$65 million as of December 29, 2007. The \$5 million reflects only the direct impact of the change in interest rates. Other economic variables, such as equity market fluctuations and changes in relative credit risk, could result in a significantly higher decline in our net investment portfolio.

#### Equity Prices

Our marketable equity investments include marketable equity instruments, equity derivative instruments such as warrants and options, and marketable equity method investments. To the extent that our marketable equity instruments have strategic value, we typically do not attempt to reduce or eliminate our market exposure; however, for our investments in strategic equity derivative instruments, including warrants, we may enter into transactions to reduce or eliminate the market risks. For instruments that we no longer consider strategic, we evaluate legal, market, and economic factors in our decision on the timing of disposal and whether it is possible and appropriate to hedge the equity market risk.

The marketable equity instruments included in trading assets are held to generate returns that offset changes in liabilities related to the equity market risk of certain deferred compensation arrangements. The gains and losses from changes in fair value of these equity instruments are generally offset by the gains and losses on the related liabilities, resulting in a net exposure of less than \$15 million as of March 29, 2008 (less than \$10 million as of December 29, 2007), assuming a reasonably possible decline in market prices of approximately 15% in the near term (10% at December 29, 2007).

As of March 29, 2008, the fair value of our marketable equity securities and equity derivative instruments, including hedging positions, was \$550 million (\$1.0 billion as of December 29, 2007). Our investments in VMware and Micron constituted 88% of our marketable equity securities as of March 29, 2008, and were carried at a fair market value of \$396 million and \$90 million, respectively. Our marketable equity method investment had a carrying value of \$471 million and a fair value of \$528 million as of March 29, 2008.

To assess the market price sensitivity of our marketable equity investments, we analyzed the historical movements over the past several years of high-technology stock indices that we considered appropriate. For our investments in companies that have been publicly traded for only a limited time, we analyzed the implied volatility of the related company based on freely traded options. Our marketable equity method investment is excluded from our analysis, as the carrying value does not fluctuate based on market price changes. Therefore, the potential fair value decline would not be indicative of the impact on our financial statements, unless an other-than-temporary impairment was deemed necessary. Based on our sensitivity analysis, we estimated that it was reasonably possible that the prices of the stocks of our marketable equity securities could experience a loss of 50% in the near term (55% as of December 29, 2007). Assuming a loss of 50% in market prices, and after reflecting the impact of hedges and offsetting positions, the aggregate value of our marketable equity securities could decrease by approximately \$280 million, based on the value as of March 29, 2008 (a decrease in value of \$565 million, based on the value as of December 29, 2007 using an assumed loss of 55%).

Many of the same factors that could result in an adverse movement of equity market prices affect our non-marketable equity investments, although we cannot quantify the impact directly. Such a movement and the underlying economic conditions would negatively affect the prospects of the companies we invest in, their ability to raise additional capital, and the likelihood of our being able to realize value in our investments through liquidity events such as initial public offerings, mergers, and private sales. These types of investments involve a great deal of risk, and there can be no assurance that any specific company will grow or become successful; consequently, we could lose all or part of our investment. Our non-marketable equity investments, excluding investments accounted for under the equity method, had a carrying amount of \$836 million as of March 29, 2008 (\$805 million as of December 29, 2007). As of March 29, 2008, the carrying amount of our non-marketable equity method investments was \$2.7 billion (\$2.6 billion as of December 29, 2007) and consisted primarily of our investment in IMFT of \$2.2 billion (\$2.2 billion as of December 29, 2007).

## **ITEM 4. CONTROLS AND PROCEDURES**

### **Evaluation of Disclosure Controls and Procedures**

Based on management's evaluation (with the participation of our Chief Executive Officer (CEO) and Chief Financial Officer (CFO)), as of the end of the period covered by this report, our CEO and CFO have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, (the "Exchange Act")) are effective to provide reasonable assurance that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms and is accumulated and communicated to management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

### **Changes in Internal Control over Financial Reporting**

There were no changes to our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### **Inherent Limitations on Effectiveness of Controls**

Our management, including the CEO and CFO, does not expect that our Disclosure Controls or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

## PART II — OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

For a discussion of legal proceedings, see “Note 16: Contingencies” in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q.

#### ITEM 1A. RISK FACTORS

We describe our business risk factors below. This description includes any material changes to and supersedes the description of the risk factors associated with our business previously disclosed in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 29, 2007.

***Fluctuations in demand for our products may harm our financial results and are difficult to forecast.***

If demand for our products fluctuates, our revenue and gross margin could be harmed. Important factors that could cause demand for our products to fluctuate include:

- changes in business and economic conditions, including a downturn in the semiconductor industry and/or the overall economy;
- changes in consumer confidence caused by changes in market conditions, including changes in the credit market;
- competitive pressures, including pricing pressures, from companies that have competing products, chip architectures, manufacturing technologies, and marketing programs;
- changes in customer product needs;
- changes in the level of customers’ components inventory;
- strategic actions taken by our competitors; and
- market acceptance of our products.

If product demand decreases, our manufacturing or assembly and test capacity could be underutilized, and we may be required to record an impairment on our long-lived assets including facilities and equipment, as well as intangible assets, which would increase our expenses. In addition, factory-planning decisions may shorten the useful lives of long-lived assets, including facilities and equipment, and cause us to accelerate depreciation. In the long term, if product demand increases, we may not be able to add manufacturing or assembly and test capacity fast enough to meet market demand. These changes in demand for our products, and changes in our customers’ product needs, could have a variety of negative effects on our competitive position and our financial results, and, in certain cases, may reduce our revenue, increase our costs, lower our gross margin percentage, or require us to recognize impairments of our assets. In addition, if product demand decreases or we fail to forecast demand accurately, we could be required to write off inventory or record underutilization charges, which would have a negative impact on our gross margin.

***The semiconductor industry and our operations are characterized by a high percentage of costs that are fixed or difficult to reduce in the short term, and by product demand that is highly variable and subject to significant downturns that may harm our business, results of operations, and financial condition.***

The semiconductor industry and our operations are characterized by high costs, such as those related to facility construction and equipment, R&D, and employment and training of a highly skilled workforce, that are either fixed or difficult to reduce in the short term. At the same time, demand for our products is highly variable and there have been downturns, often in connection with maturing product cycles as well as downturns in general economic market conditions. These downturns have been characterized by reduced product demand, manufacturing overcapacity, high inventory levels, and lower average selling prices. The combination of these factors may cause our revenue, gross margin, cash flow, and profitability to vary significantly in both the short and long term.

***We operate in intensely competitive industries, and our failure to respond quickly to technological developments and incorporate new features into our products could harm our ability to compete.***

We operate in intensely competitive industries that experience rapid technological developments, changes in industry standards, changes in customer requirements, and frequent new product introductions and improvements. If we are unable to respond quickly and successfully to these developments, we may lose our competitive position, and our products or technologies may become uncompetitive or obsolete. To compete successfully, we must maintain a successful R&D effort, develop new products and production processes, and improve our existing products and processes at the same pace or ahead of our competitors. We may not be able to develop and market these new products successfully, the products we invest in and develop may not be well received by customers, and products developed and new technologies offered by others may affect demand for our products. These types of events could have a variety of negative effects on our competitive position and our financial results, such as reducing our revenue, increasing our costs, lowering our gross margin percentage, and requiring us to recognize impairments of our assets.

***Fluctuations in the mix of products sold may harm our financial results.***

Because of the wide price differences both among and within mobile, desktop, and server microprocessors, the mix and types of performance capabilities of microprocessors sold affect the average selling price of our products and have a substantial impact on our revenue and gross margin. Our financial results also depend in part on the mix of other products that we sell, such as chipsets, flash memory, and other semiconductor products. In addition, more recently introduced products tend to have higher associated costs because of initial overall development and production ramp. Fluctuations in the mix and types of our products may also affect the extent to which we are able to recover the fixed costs and investments associated with a particular product, and as a result can harm our financial results.

***Our global operations subject us to risks that may harm our results of operations and financial condition.***

We have sales offices, R&D, manufacturing, and assembly and test facilities in many countries, and as a result, we are subject to risks associated with doing business globally. Our global operations may be subject to risks that may limit our ability to manufacture, assemble and test, design, develop, or sell products in particular countries, which could, in turn, harm our results of operations and financial condition, including:

- security concerns, such as armed conflict and civil or military unrest, crime, political instability, and terrorist activity;
- health concerns;
- natural disasters;
- inefficient and limited infrastructure and disruptions, such as large-scale outages or interruptions of service from utilities or telecommunications providers and supply chain interruptions;
- differing employment practices and labor issues;
- local business and cultural factors that differ from our normal standards and practices;
- regulatory requirements and prohibitions that differ between jurisdictions; and
- restrictions on our operations by governments seeking to support local industries, nationalization of our operations, and restrictions on our ability to repatriate earnings.

In addition, although most of our products are priced and paid for in U.S. dollars, a significant amount of certain types of expenses, such as payroll, utilities, tax, and marketing expenses, are paid in local currencies. Our hedging programs reduce, but do not entirely eliminate, the impact of currency exchange rate movements, and therefore fluctuations in exchange rates could harm our business operating results and financial condition. In addition, changes in tariff and import regulations and to U.S. and non-U.S. monetary policies may harm our operating results and financial condition by increasing our expenses and reducing our revenue. Varying tax rates in different jurisdictions could harm our operating results and financial condition by increasing our overall tax rate.

We also maintain a program of insurance coverage for various types of property, casualty, and other risks. We place our insurance coverage with various carriers in numerous jurisdictions. The types and amounts of insurance that we obtain vary from time to time and from location to location, depending on availability, cost, and our decisions with respect to risk retention. The policies are subject to deductibles and exclusions that result in our retention of a level of risk on a self-insurance basis. Losses not covered by insurance may be substantial and may increase our expenses, which could harm our results of operations and financial condition.

***Failure to meet our production targets, resulting in undersupply or oversupply of products, may harm our business and results of operations.***

Production of integrated circuits is a complex process. Disruptions in this process can result from interruptions in our processes, errors, and difficulties in our development and implementation of new processes; defects in materials; disruptions in our supply of materials or resources; and disruptions at our fabrication and assembly and test facilities due to, for example, accidents, maintenance issues, or unsafe working conditions—all of which could affect the timing of production ramps and yields. We may not be successful or efficient in developing or implementing new production processes. The occurrence of any of the foregoing may result in our failure to meet or increase production as desired, resulting in higher costs or substantial decreases in yields, which could affect our ability to produce sufficient volume to meet specific product demand. The unavailability or reduced availability of certain products could make it more difficult to implement our platform strategy. We may also experience increases in yields. A substantial increase in yields could result in higher inventory levels and the possibility of resulting excess capacity charges as we slow production to reduce inventory levels. The occurrence of any of these events could harm our business and results of operations.

***We may have difficulties obtaining the resources or products we need for manufacturing, assembling and testing our products, or operating other aspects of our business, which could harm our ability to meet demand for our products and may increase our costs.***

We have thousands of suppliers providing various materials that we use in the production of our products and other aspects of our business, and we seek, where possible, to have several sources of supply for all of those materials. However, we may rely on a single or a limited number of suppliers, or upon suppliers in a single country, for these materials. The inability of such suppliers to deliver adequate supplies of production materials or other supplies could disrupt our production processes or could make it more difficult for us to implement our business strategy. In addition, production could be disrupted by the unavailability of the resources used in production, such as water, silicon, electricity, and gases. The unavailability or reduced availability of the materials or resources that we use in our business may require us to reduce production of products or may require us to incur additional costs in order to obtain an adequate supply of those materials or resources. The occurrence of any of these events could harm our business and results of operations.

***Costs related to product defects and errata may harm our results of operations and business.***

Costs associated with unexpected product defects and errata (deviations from published specifications) due to, for example, unanticipated problems in our manufacturing processes include, costs such as:

- writing off the value of inventory of defective products;
- disposing of defective products that cannot be fixed;
- recalling defective products that have been shipped to customers;
- providing product replacements for, or modifications to, defective products; and/or
- defending against litigation related to defective products.

These costs could be substantial and may therefore increase our expenses and lower our gross margin. In addition, our reputation with our customers or users of our products could be damaged as a result of such product defects and errata, and the demand for our products could be reduced. These factors could harm our financial results and the prospects for our business.

***We may be subject to claims of infringement of third-party intellectual property rights, which could harm our business.***

From time to time, third parties may assert against us or our customers alleged patent, copyright, trademark, or other intellectual property rights to technologies that are important to our business. We may be subject to intellectual property infringement claims from certain individuals and companies who have acquired patent portfolios for the sole purpose of asserting such claims against other companies. Any claims that our products or processes infringe the intellectual property rights of others, regardless of the merit or resolution of such claims, could cause us to incur significant costs in responding to, defending, and resolving such claims, and may divert the efforts and attention of our management and technical personnel away from our business. As a result of such intellectual property infringement claims, we could be required or otherwise decide it is appropriate to:

- pay third-party infringement claims;
- discontinue manufacturing, using, or selling particular products subject to infringement claims;
- discontinue using the technology or processes subject to infringement claims;
- develop other technology not subject to infringement claims, which could be time-consuming and costly or may not be possible; and/or
- license technology from the third party claiming infringement, which license may not be available on commercially reasonable terms.

The occurrence of any of the foregoing could result in unexpected expenses or require us to recognize an impairment of our assets, which would reduce the value of our assets and increase expenses. In addition, if we alter or discontinue our production of affected items, our revenue could be negatively impacted.

***We may be subject to litigation proceedings that could harm our business.***

In addition to the litigation risks mentioned above, we may be subject to legal claims or regulatory matters involving stockholder, consumer, antitrust, and other issues. As described in “Note 16: Contingencies” in the Notes to Consolidated Condensed Financial Statements of this Form 10-Q, we are currently engaged in a number of litigation matters. Litigation is subject to inherent uncertainties, and unfavorable rulings could occur. An unfavorable ruling could include monetary damages or, in cases for which injunctive relief is sought, an injunction prohibiting us from manufacturing or selling one or more products. Were an unfavorable ruling to occur, our business and results of operations could be materially harmed.

***We may not be able to enforce or protect our intellectual property rights, which may harm our ability to compete and harm our business.***

Our ability to enforce our patents, copyrights, software licenses, and other intellectual property rights is subject to general litigation risks, as well as uncertainty as to the enforceability of our intellectual property rights in various countries. When we seek to enforce our rights, we are often subject to claims that the intellectual property right is invalid, is otherwise not enforceable, or is licensed to the party against whom we are asserting a claim. In addition, our assertion of intellectual property rights often results in the other party seeking to assert alleged intellectual property rights of its own against us, which may harm our business. If we are not ultimately successful in defending ourselves against these claims in litigation, we may not be able to sell a particular product or family of products due to an injunction, or we may have to pay damages that could, in turn, harm our results of operations. In addition, governments may adopt regulations or courts may render decisions requiring compulsory licensing of intellectual property to others, or governments may require that products meet specified standards that serve to favor local companies. Our inability to enforce our intellectual property rights under these circumstances may harm our competitive position and our business.

***Our licenses with other companies and our participation in industry initiatives may allow other companies, including our competitors, to use our patent rights.***

Companies in the semiconductor industry often rely on the ability to license patents from each other in order to compete. Many of our competitors have broad licenses or cross-licenses with us, and under current case law, some of these licenses may permit these competitors to pass our patent rights on to others. If one of these licensees becomes a foundry, our competitors might be able to avoid our patent rights in manufacturing competing products. In addition, our participation in industry initiatives may require us to license our patents to other companies that adopt certain industry standards or specifications, even when such organizations do not adopt standards or specifications proposed by us. As a result, our patents implicated by our participation in industry initiatives might not be available for us to enforce against others who might otherwise be deemed to be infringing those patents, our costs of enforcing our licenses or protecting our patents may increase, and the value of our intellectual property may be impaired.

***Changes in our decisions with regard to our announced restructuring and efficiency efforts, and other factors, could affect our results of operations and financial condition.***

Factors that could cause actual results to differ materially from our expectations with regard to our announced restructuring include:

- timing and execution of plans and programs that may be subject to local labor law requirements, including consultation with appropriate work councils;
- changes in assumptions related to severance and postretirement costs;
- future dispositions;
- new business initiatives and changes in product roadmap, development, and manufacturing;
- changes in employment levels and turnover rates;
- changes in product demand and the business environment; and
- changes in the fair value of certain long-lived assets.

***In order to compete, we must attract, retain, and motivate key employees, and our failure to do so could harm our results of operations.***

In order to compete, we must attract, retain, and motivate executives and other key employees, including those in managerial, technical, sales, marketing, and support positions. Hiring and retaining qualified executives, scientists, engineers, technical staff, and sales representatives are critical to our business, and competition for experienced employees in the semiconductor industry can be intense. To help attract, retain, and motivate qualified employees, we use share-based incentive awards such as employee stock options and non-vested share units (restricted stock units). If the value of such stock awards does not appreciate as measured by the performance of the price of our common stock or if our share-based compensation otherwise ceases to be viewed as a valuable benefit, our ability to attract, retain, and motivate employees could be weakened, which could harm our results of operations.

***Our results of operations could vary as a result of the methods, estimates, and judgments that we use in applying our accounting policies.***

The methods, estimates, and judgments that we use in applying our accounting policies have a significant impact on our results of operations (see “Critical Accounting Estimates” in Part I, Item 2 of this Form 10-Q). Such methods, estimates, and judgments are, by their nature, subject to substantial risks, uncertainties, and assumptions, and factors may arise over time that lead us to change our methods, estimates, and judgments. Changes in those methods, estimates, and judgments could significantly affect our results of operations.

***Our failure to comply with applicable environmental laws and regulations worldwide could harm our business and results of operations.***

The manufacturing and assembling and testing of our products require the use of hazardous materials that are subject to a broad array of environmental, health, and safety laws and regulations. Our failure to comply with any of these applicable laws or regulations could result in:

- regulatory penalties, fines, and legal liabilities;
- suspension of production;
- alteration of our fabrication and assembly and test processes; and
- curtailment of our operations or sales.

In addition, our failure to manage the use, transportation, emission, discharge, storage, recycling, or disposal of hazardous materials could subject us to increased costs or future liabilities. Existing and future environmental laws and regulations could also require us to acquire pollution abatement or remediation equipment, modify our product designs, or incur other expenses associated with such laws and regulations. Many new materials that we are evaluating for use in our operations may be subject to regulation under existing or future environmental laws and regulations that may restrict our use of one or more of such materials in our manufacturing, assembly and test processes, or products. Any of these restrictions could harm our business and results of operations by increasing our expenses or requiring us to alter our manufacturing and assembly and test processes.



***Changes in our effective tax rate may harm our results of operations.***

A number of factors may increase our future effective tax rates, including:

- the jurisdictions in which profits are determined to be earned and taxed;
- the resolution of issues arising from tax audits with various tax authorities;
- changes in the valuation of our deferred tax assets and liabilities;
- adjustments to estimated taxes upon finalization of various tax returns;
- increases in expenses not deductible for tax purposes, including write-offs of acquired in-process R&D and impairments of goodwill in connection with acquisitions;
- changes in available tax credits;
- changes in tax laws or the interpretation of such tax laws, and changes in generally accepted accounting principles; and
- our decision to repatriate non-U.S. earnings for which we have not previously provided for U.S. taxes.

Any significant increase in our future effective tax rates could reduce net income for future periods.

***We invest in companies for strategic reasons and may not realize a return on our investments.***

We make investments in companies around the world to further our strategic objectives and support our key business initiatives. Such investments include investments in equity securities of public companies and non-marketable equity investments in private companies, which range from early-stage companies that are often still defining their strategic direction to more mature companies with established revenue streams and business models. The success of these companies is dependent on product development, market acceptance, operational efficiency, and other key business factors. The private companies in which we invest may fail because they may not be able to secure additional funding, obtain favorable investment terms for future financings, or take advantage of liquidity events such as initial public offerings, mergers, and private sales. If any of these private companies fail, we could lose all or part of our investment in that company. If we determine that an other-than-temporary decline in the fair value exists for an equity investment in a public or private company in which we have invested, we write down the investment to its fair value and recognize the related write-down as an investment loss. Furthermore, when the strategic objectives of an investment have been achieved, or if the investment or business diverges from our strategic objectives, we may decide to dispose of the investment. Our non-marketable equity investments in private companies are not liquid, and we may not be able to dispose of these investments on favorable terms or at all. The occurrence of any of these events could harm our results of operations. Additionally, for cases in which we are required under equity method accounting to recognize a proportionate share of another company's income or loss, such income and loss may impact our earnings.

***Interest and other, net could vary from expectations, which could harm our results of operations.***

Factors that could cause interest and other, net in our consolidated condensed statements of income to fluctuate include:

- fixed-income and credit market volatility;
- fluctuations in interest rates;
- changes in our cash and investment balances;
- fluctuations in foreign currency exchange rates;
- other-than-temporary impairments in the fair value of fixed-income instruments;
- changes in our hedge accounting treatment; and
- gains or losses from divestitures.

***Our acquisitions, divestitures, and other transactions could disrupt our ongoing business and harm our results of operations.***

In pursuing our business strategy, we routinely conduct discussions, evaluate opportunities, and enter into agreements regarding possible investments, acquisitions, divestitures, and other transactions, such as joint ventures. Acquisitions and other transactions involve significant challenges and risks, including risks that:

- we may not be able to identify suitable opportunities at terms acceptable to us;
- the transaction may not advance our business strategy;
- we may not realize a satisfactory return on the investment we make;
- we may not be able to retain key personnel of the acquired business; or
- we may experience difficulty in integrating new employees, business systems, and technology.

When we decide to sell assets or a business, we may encounter difficulty in finding or completing divestiture opportunities or alternative exit strategies on acceptable terms in a timely manner, and the agreed terms and financing arrangements could be renegotiated due to changes in business or market conditions. These circumstances could delay the accomplishment of our strategic objectives or cause us to incur additional expenses with respect to businesses that we want to dispose of, or we may dispose of a business at a price or on terms that are less favorable than we had anticipated, resulting in a loss on the transaction.

If we do enter into agreements with respect to acquisitions, divestitures, or other transactions, we may fail to complete them due to:

- failure to obtain required regulatory or other approvals;
- intellectual property or other litigation;
- difficulties that we or other parties may encounter in obtaining financing for the transaction; or other factors.

Further, acquisition, divestiture, and other transactions require substantial management resources and have the potential to divert our attention from our existing business. These factors could harm our business and results of operations.

## ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

### Issuer Purchases of Equity Securities

We have an ongoing authorization, amended in November 2005, from our Board of Directors to repurchase up to \$25 billion in shares of our common stock in open market or negotiated transactions. As of March 29, 2008, \$12 billion remained available for repurchase under the existing repurchase authorization. A portion of our purchases in the first quarter of 2008 were executed under a privately negotiated forward purchase agreement.

Common stock repurchase activity under our authorized plan during the first quarter of 2008 was as follows (in millions, except per share amounts):

<u>Period</u>	<u>Total Number of Shares Purchased</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans</u>	<u>Dollar Value of Shares that May Yet Be Purchased Under the Plans</u>
December 30, 2007-January 26, 2008	8.6	\$ 19.25	8.6	\$ 14,354
January 27, 2008-February 23, 2008	49.9	\$ 20.53	49.9	\$ 13,330
February 24, 2008-March 29, 2008	63.4	\$ 20.66	63.4	\$ 12,020
<b>Total</b>	<b>121.9</b>	<b>\$ 20.51</b>	<b>121.9</b>	

For the majority of restricted stock units granted, the number of shares issued on the date the restricted stock units vest is net of the statutory withholding requirements that we pay on behalf of our employees. These withheld shares are not included within the common stock repurchase totals in the tables above.

## ITEM 6. EXHIBITS

- 3.1 Intel Corporation Third Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K as filed on May 22, 2006)
- 3.2 Intel Corporation Bylaws, as amended on January 17, 2007 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K as filed on January 18, 2007)
- 10.1 Amended and Restated Master Agreement By and Between STMicroelectronics N.V., Intel Corporation, Redwood Blocker S.A.R.L., Francisco Partners II (Cayman) L.P., PK Flash, LLC, and Francisco Partners Parallel Fund II L.P., dated March 30, 2008
- 10.2 Asset Transfer Agreement By and Between Numonyx Holdings B.V., Numonyx B.V., and Intel Corporation, dated as of March 30, 2008
- 10.3\*\* Form of Stock Option Agreement with Continued Post-Employment Exercisability
- 10.4\*\* Intel Corporation 2006 Equity Incentive Plan Terms and Conditions Relating to Restricted Stock Units Granted to Paul S. Otellini On April 17, 2008 under the Intel Corporation 2006 Equity Incentive Plan (under the ELTSOP RSU program) (incorporated by reference to Exhibit 99.1 to the Registrant's Current Report on Form 8-K as filed on April 17, 2008)
- 10.5\*\* Amendment of Stock Option and Restricted Stock Unit Agreements with the Elimination of Leave of Absence Provisions
- 10.6\*\* Amendment of Stock Option and Restricted Stock Unit Agreements with the Elimination of Leave of Absence Provisions and the Addition of the Ability to Change the Grant Agreement as Laws Change
- 12.1 Statement Setting Forth the Computation of Ratios of Earnings to Fixed Charges
- 31.1 Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) of the Exchange Act
- 31.2 Certification of Chief Financial Officer and Principal Accounting Officer Pursuant to Rule 13a-14(a) of the Exchange Act
- 32.1 Certification of Chief Executive Officer and Chief Financial Officer and Principal Accounting Officer Pursuant to Rule 13a-14(b) of the Exchange Act and 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

\*\* *Management contracts or compensation plans or arrangements in which executive officers are eligible to participate.*

---

*Intel, the Intel logo, Intel Inside, Intel Atom, Celeron, Intel Centrino, Intel Core, Intel Core Duo, Intel Core 2 Duo, Intel Core 2 Quad, Intel Viiv, Intel vPro, Intel Xeon, Intel XScale, Itanium, and Pentium are trademarks of Intel Corporation in the U.S. or other countries.*

*\*Other names and brands may be claimed as the property of others.*

**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.

INTEL CORPORATION  
(Registrant)

Date: May 1, 2008

By: /s/ Stacy J. Smith  
Stacy J. Smith  
Vice President, Chief Financial Officer and  
Principal Accounting Officer

---

AMENDED AND RESTATED MASTER AGREEMENT

BY AND BETWEEN

STMICROELECTRONICS N.V.,

INTEL CORPORATION,

REDWOOD BLOCKER S.A.R.L.,

FRANCISCO PARTNERS II (CAYMAN) L.P.,

PK FLASH, LLC,

AND

FRANCISCO PARTNERS PARALLEL FUND II L.P.

March 30, 2008

---

---

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	3
1.1 Definitions	3
1.2 Defined Terms Generally	3
ARTICLE II AGREEMENTS	3
2.1 Intel Asset Transfer	3
2.2 ST Asset Contribution	4
2.3 FP Purchase	4
2.4 Other Agreements among the Parties and Holdings and its Affiliates	4
2.5 Closing	4
ARTICLE III REPRESENTATIONS AND WARRANTIES	5
3.1 Intel Representations	5
3.2 ST Representations	7
3.3 The FP Parties Representations	10
ARTICLE IV COVENANTS	12
4.1 Access to Information	12
4.2 Exclusive Dealing	13
4.3 Reasonable Efforts	13
4.4 Certain Consents and Filings; Further Assurances	13
4.5 Press Releases	14
4.6 Certain Deliveries and Notices	15
4.7 Non-Solicitation of Employees	15
4.8 Tax Matters	16
4.9 Operation of the Intel Business Prior to the Closing	16

	<u>Page</u>
4.10 Operation of the ST Business Prior to the Closing	19
4.11 Employee Matters	22
4.12 Additions to and Modifications of Schedules	23
4.13 Third Party Appraisal and Allocation; Dutch Auditors	26
4.14 Notices of Certain Intel Events	26
4.15 Notices of Certain ST Events	27
4.16 Holdings and Numonyx Formation and Preparation	28
4.17 Holdings and Numonyx Tax Elections	30
4.18 Holdings Closing Reorganization	31
4.19 Cooperation with Financing	31
4.20 Environmental Consultants	31
4.21 Hynix JV Matters	31
4.22 Facility Transfer Term Sheets	31
4.23 Governmental Consents	32
4.24 Release of Liens	32
4.25 ST Litigation	32
4.26 Intel Litigation	32
4.27 Confidentiality Agreements	32
4.28 Further Assurances	33
ARTICLE V CONDITIONS TO CLOSING	33
5.1 Conditions to Obligations of Intel	33
5.2 Conditions to Obligations of ST	35
5.3 Conditions to Obligations of the FP Parties	37
ARTICLE VI TERMINATION	39
6.1 Grounds for Termination	39

	<u>Page</u>
6.2 Effect of Termination	40
6.3 Termination of Representations and Warranties and Covenants Upon the Closing	41
6.4 Exclusive Remedy	41
ARTICLE VII MISCELLANEOUS	41
7.1 Notices	41
7.2 Amendments; Waivers	44
7.3 Expenses	44
7.4 Successors and Assigns	44
7.5 Governing Law	45
7.6 Counterparts; Effectiveness	45
7.7 Entire Agreement	45
7.8 Captions	45
7.9 Severability	45
7.10 Dispute Resolution	45
7.11 Waiver of Jury Trial	48
7.12 Third Party Beneficiaries	48
7.13 Specific Performance	48
7.14 No Presumption Against Drafting Party	48



## AMENDED AND RESTATED MASTER AGREEMENT

THIS AMENDED AND RESTATED MASTER AGREEMENT, dated as of March 30, 2008 (the "Master Agreement" and, as referred to herein, this "Agreement"), is entered into by and among Intel Corporation, a Delaware corporation ("Intel"), STMicroelectronics N.V., a limited liability company organized under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands ("ST"), Redwood Blocker S.a.r.l., a limited liability company organized under the laws of The Grand-Duchy of Luxembourg ("FP Co."), and Francisco Partners II (Cayman) L.P., an exempted limited partnership organized under the laws of the Cayman Islands ("FP Holdco"), PK Flash, LLC, a limited liability company organized under the laws of Delaware ("FP LLC") and Francisco Partners Parallel L.P., a Delaware limited partnership ("FP Parallel"), together with FP Co., FP Holdco and FP LLC, the "FP Parties". Intel, ST and the FP Parties are sometimes referred to herein as the "Parties" and each individually as a "Party."

- A. The Parties entered into that certain Master Agreement, dated as of May 22, 2007 (the "Signing Date") (the "Original Master Agreement").
- B. Pursuant to Section 7.2 of the Original Master Agreement, any term of the Original Master Agreement may be amended, if such amendment is in writing and signed by all Parties.
- C. The Parties desire to amend and restate the Original Master Agreement in its entirety.
- D. Intel currently designs, manufactures and produces the Intel Products for use in various consumer electronics and other end applications.
- E. ST currently designs, manufactures and produces the ST Products for use in various consumer electronics and other end applications.
- F. The Parties have formed a holding company under the laws of The Netherlands ("Holdings") and a wholly owned Subsidiary of Holdings organized under the laws of The Netherlands ("Numonyx"), on the terms and conditions set forth in the Original Master Agreement and the other Transaction Documents.
- G. Intel desires to transfer, and to cause certain of its Affiliates to transfer to Holdings and its Affiliates, the Intel Transferred Assets in consideration for the issuance by Holdings of the Intel Holdings Shares, the payment by Holdings or a Subsidiary of Holdings of the Intel Aggregate Cash, and the assumption by Holdings or its Affiliates of the Intel Transferred Liabilities, all on the terms and conditions set forth in the Intel Asset Transfer Agreement, the Intel Ancillary Agreements and this Agreement.
- H. ST desires to transfer, and to cause certain of its Affiliates to transfer to Numonyx and its Affiliates, the ST Transferred Assets in consideration for the issuance by Numonyx of the ST Numonyx Shares, and the assumption by Numonyx or its Affiliates of the ST Transferred Liabilities, followed by ST's contribution of the ST Numonyx Shares in consideration for the

issuance by Holdings of the ST Holdings Shares and the issuance by Holdings of the ST Notes, all on the terms and conditions set forth in the ST Asset Contribution Agreement, the ST Ancillary Agreements, the Note Agreement and this Agreement.

I. FP desires to invest in Holdings by purchasing and accepting from Holdings the FP Holdings Shares and the FP Notes on the terms and conditions set forth in the FP Purchase Agreement and the Note Agreement.

J. Intel desires to provide financing to Holdings by purchasing and accepting from Holdings the Intel Notes on the terms and conditions set forth in the Note Agreement.

K. The Parties desire to enter into various agreements with one another and with Holdings and its Affiliates, to set forth the ongoing governance and operating relationships among the Parties and Holdings and its Affiliates relating to the business of Holdings and its Affiliates, all as contemplated by this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

## **ARTICLE I DEFINITIONS**

1.1 Definitions. Capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Appendix A to this Agreement.

1.2 Defined Terms Generally. The definitions set forth in Appendix A or otherwise referred to in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed to be references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Unless the context shall otherwise require, any reference to any contract, instrument, statute, rule or regulation is a reference to it as amended and supplemented from time to time (and, in the case of a statute, rule or regulation, to any successor provision). Any reference in this Agreement to a “day” or a number of “days” (without the explicit qualification of “Business”) shall be interpreted as a reference to a calendar day or number of calendar days.

## **ARTICLE II AGREEMENTS**

2.1 Intel Asset Transfer. On the Closing Date, at the Closing, subject to (a) the fulfillment, or waiver by Intel, of each condition to the obligation of Intel to consummate the transactions contemplated by this Agreement, (b) the fulfillment, or waiver by ST, of each condition to the obligation of ST to consummate the transactions contemplated by this Agreement and (c) the fulfillment, or waiver by the FP Parties, of each condition to the obligation of the FP Parties to consummate the transactions contemplated by this Agreement, Intel shall, and the Parties shall cause Holdings it Affiliates to, execute and deliver the Intel

Asset Transfer Agreement and the Intel Ancillary Agreements contemplated thereby to which each, respectively, is a party, and Intel shall, and the Parties shall cause Holdings to, consummate and cause their Affiliates to consummate, as applicable, each of the transactions contemplated by the Intel Asset Transfer Agreement and the Intel Ancillary Agreements to be consummated at the Closing.

2.2 ST Asset Contribution. On the Closing Date, at the Closing, subject to (a) the fulfillment, or waiver by ST, of each condition to the obligation of ST to consummate the transactions contemplated by this Agreement, (b) the fulfillment, or waiver by Intel, of each condition to the obligation of Intel to consummate the transactions contemplated by this Agreement and (c) the fulfillment, or waiver by the FP Parties, of each condition to the obligations of the FP Parties to consummate the transactions contemplated by this Agreement, ST shall, and the Parties shall cause Holdings and its Affiliates to, execute and deliver the ST Asset Contribution Agreement and the ST Ancillary Agreements contemplated thereby to which each, respectively, is a party, and ST shall, and the Parties shall cause Holdings to, consummate and cause their Affiliates to consummate, as applicable, each of the transactions contemplated by the ST Asset Contribution Agreement and the ST Ancillary Agreements to be consummated at the Closing.

2.3 FP Purchase. On the Closing Date, at the Closing, subject to (a) the fulfillment, or waiver by the FP Parties, of each condition to the obligations of the FP Parties to consummate the transactions contemplated by this Agreement, (b) the fulfillment, or waiver by Intel, of each condition to the obligation of Intel to consummate the transactions contemplated by this Agreement and (c) the fulfillment, or waiver by ST, of each condition to the obligation of ST to consummate the transactions contemplated by this Agreement, the FP Parties shall, and the Parties shall cause Holdings to, execute and deliver the FP Purchase Agreement and consummate each of the transactions contemplated by the FP Purchase Agreement to be consummated at the Closing.

2.4 Other Agreements among the Parties and Holdings and its Affiliates. Except as otherwise set forth herein, on the Closing Date, at the Closing, the Parties shall, and shall cause (a) each of their respective Affiliates and (b) Holdings and its Affiliates to, as the case may be, execute and deliver the Transaction Documents to which each, respectively, is a party, to the extent such Party, Subsidiary, Holdings or an Affiliate of Holdings is a party to such respective agreements.

2.5 Closing. The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Gibson, Dunn & Crutcher LLP, Palo Alto, California, as soon as possible, but in no event later than five Business Days, after fulfillment of the conditions set forth in Article V hereof to each Party’s obligation to close the transactions contemplated by this Agreement or the waiver thereof by such Party, or at such other time or place as the Parties may agree.

**ARTICLE III  
REPRESENTATIONS AND WARRANTIES**

3.1 Intel Representations. Except as set forth in the Intel Master Agreement Disclosure Letter, Intel represents and warrants to ST and the FP Parties, as of the Signing Date, as follows:

(a) Existence and Good Standing. Intel is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all corporate power and authority required to carry on its business as now conducted and to own and operate its business as now owned and operated by it. Intel is qualified to conduct business and is in good standing in each jurisdiction in which it conducts business other than such jurisdictions where the failure to be so qualified would not reasonably be expected to have an Intel Material Adverse Effect.

(b) Authorization; Enforceability. Intel has all requisite corporate power and authority to execute and deliver this Agreement and each of the Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Intel of this Agreement and each of the Transaction Documents to which Intel is a party, and the performance by Intel of its obligations contemplated hereby and thereby, have been duly and validly authorized by all necessary corporate action. This Agreement has been and, when executed at the Closing, the other Transaction Documents will have been, duly and validly executed and delivered by Intel and, assuming the due execution and delivery of this Agreement and the other Transaction Documents to which it is a party by the other parties thereto, this Agreement constitutes, and as of the Closing, each of the Transaction Documents to which Intel is a party will constitute, the legal, valid and binding agreement of Intel, enforceable against Intel in accordance with their respective terms, except to the extent (i) that their enforceability may be subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or to general principles of equity or (ii) indemnification provisions contained in the Securityholders' Agreement may be limited by applicable securities laws.

(c) Governmental Authorization. Other than the Intel Approvals, ST Approvals and Numonyx Approvals, the execution, delivery and performance by Intel of this Agreement and the other Transaction Documents to which it is a party, and the consummation by it of the transactions contemplated hereby and thereby, require no Governmental Approval.

(d) Non-Contravention; Consents.

(i) The execution, delivery and performance by Intel of this Agreement and the other Transaction Documents to which Intel is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (A) contravene or conflict with the certificate of incorporation, bylaws or other organizational documents of Intel; (B) assuming receipt of the Intel

Approvals, the ST Approvals and the Numonyx Approvals and the Intel Contractual Consents, contravene or conflict with or constitute a material violation of any provision of any Applicable Law binding upon or applicable to Intel, the Intel Transferred Assets; or (C) assuming receipt of the Intel Approvals and of the Intel Contractual Consents, (1) constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any benefit under any Intel Contract, including the Intel Transferred Contracts, (2) result in the creation or imposition of any Lien (other than Permitted Liens) on any Intel Transferred Asset, or (3) constitute a breach, default or violation of any settlement agreement, judgment, injunction or decree, except in the case of clause (B) or (C), for matters that would not reasonably be expected to have an Intel Material Adverse Effect (*provided* that in determining whether an Intel Material Adverse Effect would result, any adverse effect otherwise excluded by clause (C) of the definition of “Intel Material Adverse Effect” shall be taken into account).

(ii) The execution, delivery and performance by Intel of this Agreement and the other Transaction Documents to which Intel is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not, as of the Closing Date, constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any material benefit under, any Contract identified on Schedule 3.1(d)(ii) of the Intel Master Agreement Disclosure Letter; *provided, however*, that for the avoidance of doubt, the Parties acknowledge and agree that the representations and warranties set forth in this Section 3.1(d)(ii) shall not be deemed to be untrue or inaccurate in any respect as a result of (A) any action or omission by Holdings or any of its Affiliates, other than with respect to Intel Transferred Entities prior to Closing, that constitutes or results in a default by Intel or any Intel Subsidiary or gives rise to any right of termination, cancellation, modification, acceleration of, or a loss of any material benefit under any such Contract; and (B) any withdrawal or voiding after the Closing of any consent granted prior to the Closing by a party to such Contract, which withdrawal or voiding purports to have retroactive effect to the Closing.

(e) Litigation. As of the Signing Date, there is no Proceeding or, to the Knowledge of Intel, investigation pending or, to the Knowledge of Intel, threatened in writing, by or against Intel or any of Intel’s Subsidiaries seeking to prevent, enjoin, alter or delay the transactions contemplated by this Agreement or any of the other Transaction Documents or encumber the Intel Transferred Interests.

(f) Incorporation by Reference of Additional Representations and Warranties. As of the Signing Date (except that with respect to any representation and warranty that specifies another date, such representation and warranty shall be made as of such specified date), subject to the exceptions set forth in the Intel ATA Disclosure Letter, Intel hereby represents and warrants that each of the representations and warranties set forth in Sections 3.1-3.24 of the Intel Asset Transfer Agreement attached to Schedule 2.1 of the Intel Master Agreement Disclosure Letter are true and correct. Upon the consummation of the Closing, the provisions of this Section 3.1(f) shall terminate and

cease to be of any further force or effect, as if never made, and no action may be brought based on the same, whether for indemnification, breach of contract, tort or under any other legal theory.

(g) Reliance. Intel has conducted such investigation and inspection of the ST Transferred Assets, the ST Transferred Liabilities, the ST Business and the ST Products that Intel has deemed necessary or appropriate for the purpose of entering into this Agreement and the other Transaction Documents and consummating the transactions contemplated hereby and thereby. In executing this Agreement and the other Transaction Documents to which it is a party, Intel is relying on its own investigation and on the provisions set forth herein and therein and not on any other statements, presentations, representations, warranties or assurances of any kind made by ST, the FP Parties, any of their representatives or any other Person. Intel acknowledges that (i) the representations and warranties of (A) ST contained in Section 3.2 hereof and (B) the FP Parties contained in Section 3.3 hereof, constitute the sole and exclusive representations and warranties of each such Party to Intel in connection with this Agreement and the transactions contemplated hereby, and (ii) all other representations and warranties are specifically disclaimed and may not be relied upon or serve as a basis for a claim against ST or FP. INTEL ACKNOWLEDGES THAT ST DISCLAIMS ALL WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN SECTION 3.2 AS TO THE ST TRANSFERRED ASSETS, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED EXPRESSLY IN SECTION 3.2, HOLDINGS AND ITS AFFILIATES WILL ACQUIRE THE ST TRANSFERRED ASSETS ON AN "AS IS, WHERE IS" BASIS. FROM AND AFTER THE CLOSING, INTEL SHALL HAVE NO RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH BY ST OF ITS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 3.2(f) OF THIS AGREEMENT, AND INTEL SHALL HAVE NO RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH OF ANY PROVISION OF THE FP PURCHASE AGREEMENT OR THE ST ASSET CONTRIBUTION AGREEMENT (INCLUDING THE REPRESENTATIONS, WARRANTIES AND INDEMNITIES SET FORTH IN SUCH AGREEMENTS); *PROVIDED, HOWEVER*, THAT NOTHING HEREIN SHALL AFFECT THE RIGHTS AND REMEDIES OF ANY HOLDINGS INDEMNITEE FOR OR WITH RESPECT TO ANY BREACH OF SUCH AGREEMENTS.

3.2 ST Representations. Except as set forth in the ST Master Agreement Disclosure Letter, ST represents and warrants to Intel and the FP Parties as of the Signing Date, as follows:

(a) Existence and Good Standing. ST is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all corporate power and authority required to carry on its business as now conducted and to own and operate its business as now owned and operated by it. ST is qualified to conduct business and is in good standing in each jurisdiction in which it conducts business other than such jurisdictions where the failure to be so qualified would not reasonably be expected to have an ST Material Adverse Effect.

(b) Authorization; Enforceability. ST has all requisite corporate power and authority to execute and deliver this Agreement and each of the Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by ST of this Agreement and each of the Transaction Documents to which ST is a party, and the performance by ST of its obligations contemplated hereby and thereby, have been duly and validly authorized by all necessary corporate action. This Agreement has been and, when executed at the Closing, the other Transaction Documents will have been, duly and validly executed and delivered by ST and, assuming the due execution and delivery of this Agreement and the other Transaction Documents to which it is a party by the other parties thereto, this Agreement constitutes, and as of the Closing, each of the Transaction Documents to which ST is a party will constitute, the legal, valid and binding agreement of ST, enforceable against ST in accordance with their respective terms, except to the extent (i) that their enforceability may be subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or to general principles of equity or (ii) indemnification provisions contained in the Securityholders' Agreement may be limited by applicable securities laws.

(c) Governmental Authorization. Other than the ST Approvals, Intel Approvals and Numonyx Approvals, the execution, delivery and performance by ST of this Agreement and the other Transaction Documents to which it is a party, and the consummation by it of the transactions contemplated hereby and thereby, require no Governmental Approval.

(d) Non-Contravention; Consents.

(i) The execution, delivery and performance by ST of this Agreement and the other Transaction Documents to which ST is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (A) contravene or conflict with the articles of association, governance rules or other organizational documents of ST; (B) assuming receipt of the ST Approvals, the Intel Approvals, the Numonyx Approvals and the ST Contractual Consents, contravene or conflict with or constitute a material violation of any provision of any Applicable Law binding upon or applicable to ST, the ST Transferred Assets or the ST Transferred Entities; or (C) assuming receipt of the ST Approvals and of the ST Contractual Consents, (1) constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any benefit under any ST Contract, including the ST Transferred Contracts, (2) result in the creation or imposition of any Lien (other than Permitted Liens) on any ST Transferred Asset, or (3) constitute a breach, default or violation of any settlement agreement, judgment, injunction or decree, except in the case of clause (B) or (C), for matters that would not reasonably be expected to have an ST Material Adverse Effect (*provided* that in determining whether an ST Material Adverse Effect would result, any adverse effect otherwise excluded by clause (C) of the definition of "ST Material Adverse Effect" shall be taken into account).

(ii) The execution, delivery and performance by ST of this Agreement and the other Transaction Documents to which ST is a party, and the consummation of the transactions contemplated hereby and thereby, to the Knowledge of ST, do not and will not, as of the Closing Date: (A) contravene or conflict with the articles of association, joint venture agreement or other organizational or governing documents of the Hynix JV; or (B) constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any material benefit under, the Hynix JV Junior Credit Agreement or any other contract or agreement between ST or any Subsidiary of ST and the Hynix JV.

(e) Litigation. As of the Signing Date, there is no Proceeding or to the Knowledge of ST, investigation pending or, to the Knowledge of ST, threatened in writing, by or against ST or any of ST's Subsidiaries seeking to prevent, enjoin, alter or delay the transactions contemplated by this Agreement or any of the other Transaction Documents or encumber the ST Transferred Interests.

(f) Incorporation by Reference of Additional Representations and Warranties. As of the Signing Date (except that with respect to any representation and warranty that specifies another date, such representation and warranty shall be made as of such specified date), subject to the exceptions set forth in the ST ACA Disclosure Letter, ST hereby represents and warrants that each of the representations and warranties set forth in Sections 3.1-3.24 of the ST Asset Contribution Agreement attached to Schedule 2.2 of the ST Master Agreement Disclosure Letter are true and correct. Upon the consummation of the Closing, the provisions of this Section 3.2(f) shall terminate and cease to be of any further force or effect, as if never made, and no action may be brought based on the same, whether for indemnification, breach of contract, tort or under any other legal theory.

(g) Reliance. ST has conducted such investigation and inspection of the Intel Transferred Assets, the Intel Transferred Liabilities, the Intel Business and the Intel Products that ST has deemed necessary or appropriate for the purpose of entering into this Agreement and the other Transaction Documents and consummating the transactions contemplated hereby and thereby. In executing this Agreement and the other Transaction Documents to which it is a party, ST is relying on its own investigation and on the provisions set forth herein and therein and not on any other statements, presentations, representations, warranties or assurances of any kind made by Intel, the FP Parties, any of their representatives or any other Person. Intel acknowledges that (i) the representations and warranties of (A) Intel contained in Section 3.1 hereof and (B) the FP Parties contained in Section 3.3 hereof constitute the sole and exclusive representations and warranties of each such Party to ST in connection with this Agreement and the transactions contemplated hereby, and (ii) all other representations and warranties are specifically disclaimed and may not be relied upon or serve as a basis for a claim against Intel or the FP Parties. ST ACKNOWLEDGES THAT INTEL DISCLAIMS ALL WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN SECTION 3.1 AS TO THE INTEL TRANSFERRED ASSETS, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY WARRANTY OF MERCHANTABILITY



OR WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED EXPRESSLY IN SECTION 3.1, HOLDINGS AND ITS AFFILIATES WILL ACQUIRE THE INTEL TRANSFERRED ASSETS ON AN “AS IS, WHERE IS” BASIS. FROM AND AFTER THE CLOSING, ST SHALL HAVE NO RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH BY INTEL OF ITS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 3.1(f) OF THIS AGREEMENT, AND ST SHALL HAVE NO RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH OF ANY PROVISION OF THE FP PURCHASE AGREEMENT OR THE INTEL ASSET TRANSFER AGREEMENT (INCLUDING THE REPRESENTATIONS, WARRANTIES AND INDEMNITIES SET FORTH IN SUCH AGREEMENTS); *PROVIDED, HOWEVER*, THAT NOTHING HEREIN SHALL AFFECT THE RIGHTS AND REMEDIES OF ANY HOLDINGS INDEMNITEE FOR OR WITH RESPECT TO ANY BREACH OF SUCH AGREEMENTS.

3.3 The FP Parties Representations. Each of the FP Parties represents and warrants to Intel and ST, as of the Signing Date, as follows:

(a) Existence and Good Standing. Each of the FP Parties are duly organized, validly existing and in good standing under the laws of each of their respective jurisdictions of organization and each has all power and authority required to carry on its business as now conducted and to own and operate its business as now owned and operated by it. Each of the FP Parties is qualified to conduct business and is in good standing in each jurisdiction in which such qualification is required other than such jurisdictions where the failure to be so qualified would not reasonably be expected to have an FP Material Adverse Effect.

(b) Authorization; Enforceability. Each of the FP Parties has all requisite power and authority to execute and deliver this Agreement and each of the Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each of the FP Parties of this Agreement and each of the Transaction Documents to which it is a party, and the performance by each of the FP Parties of its obligations contemplated hereby and thereby, have been duly and validly authorized by all necessary action. This Agreement has been and, when executed at the Closing, the other Transaction Documents will have been, duly and validly executed and delivered by each of the FP Parties and, assuming the due execution and delivery of this Agreement and the other Transaction Documents to which it is a party by the other Parties thereto, this Agreement constitutes, and as of the Closing, each of the Transaction Documents to which each of the FP Parties is a party will constitute, the legal, valid and binding agreement of each of the FP Parties, enforceable against each of the FP Parties in accordance with their respective terms, except to the extent that (i) their enforceability may be subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors’ rights generally or to general principles of equity or (ii) indemnification provisions contained in the Securityholders’ Agreement may be limited by applicable securities laws.

(c) Governmental Authorization. Other than the Intel Approvals, the ST Approvals, the Numonyx Approvals and compliance with any applicable Competition Laws, the execution, delivery and performance by each of the FP Parties of this Agreement and the other Transaction Documents to which it is a party, and the consummation by it of the transactions contemplated hereby and thereby, require no Governmental Approval.

(d) Non-Contravention; Consents. The execution, delivery and performance by each of the FP Parties of this Agreement and the other Transaction Documents to which each of the FP Parties is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (i) contravene or conflict with the organizational documents of each of the FP Parties, (ii) assuming receipt of the Intel Approvals, the ST Approvals, the Numonyx Approvals and compliance with applicable Competition Laws, contravene or conflict with or constitute a material violation of any provision of any Applicable Law binding upon or applicable to any of the FP Parties, or (iii) assuming receipt of the Intel Approvals, the ST Approvals, the Numonyx Approvals and compliance with applicable Competition Laws, contravene or constitute a default under any material agreement to which any of the FP Parties is a party, except in the case of clause (ii) or (iii), for matters that would not reasonably be expected to have an FP Material Adverse Effect.

(e) Litigation. As of the Signing Date, there is no Proceeding or to the Knowledge of the FP Parties, investigation, pending or, to the Knowledge of the FP Parties, threatened in writing, by or against any of the FP Parties seeking to prevent, enjoin, alter or delay the transactions contemplated by this Agreement or any of the other Transaction Documents.

(f) Reliance. Each of the FP Parties has conducted such investigation and inspection of the Intel Transferred Assets, the Intel Transferred Liabilities, the Intel Business, the Intel Products, the ST Transferred Assets, the ST Transferred Liabilities, the ST Business and the ST Products that the FP Parties, respectively, has deemed necessary or appropriate for the purpose of entering into this Agreement and the other Transaction Documents and consummating the transactions contemplated hereby and thereby. In executing this Agreement and the other Transaction Documents to which it is a party, each of the FP Parties is relying on its own investigation and on the provisions set forth herein and therein and not on any other statements, presentations, representations, warranties or assurances of any kind made by Intel, ST, their representatives or any other Person. Each of the FP Parties acknowledges that (i) the representations and warranties of (A) Intel contained in Section 3.1 hereof and (B) ST contained in Section 3.2 hereof constitute the sole and exclusive representations and warranties of each such Party to the FP Parties in connection with this Agreement and the transactions contemplated hereby, and (ii) all other representations and warranties are specifically disclaimed and may not be relied upon or serve as a basis for a claim against Intel or ST. EACH OF THE FP PARTIES ACKNOWLEDGE THAT INTEL AND ST DISCLAIM ALL WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN SECTION 3.1 AND SECTION 3.2, RESPECTIVELY, THE INTEL ASSET TRANSFER AGREEMENT AND THE ST ASSET CONTRIBUTION AGREEMENT AS TO THE

INTEL TRANSFERRED ASSETS AND ST TRANSFERRED ASSETS, RESPECTIVELY, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED EXPRESSLY IN SECTION 3.1 AND SECTION 3.2, RESPECTIVELY, HOLDINGS AND ITS AFFILIATES WILL ACQUIRE THE INTEL TRANSFERRED ASSETS AND ST TRANSFERRED ASSETS, RESPECTIVELY, ON AN "AS IS, WHERE IS" BASIS. FROM AND AFTER THE CLOSING, NONE OF THE FP PARTIES SHALL HAVE ANY RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH BY (I) INTEL OF ITS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 3.1(f) OF THIS AGREEMENT AND (II) ST OF ITS REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 3.2(f) OF THIS AGREEMENT. NONE OF THE FP PARTIES SHALL HAVE ANY RIGHTS OR REMEDIES FOR OR WITH RESPECT TO ANY BREACH OF ANY PROVISION OF THE INTEL ASSET TRANSFER AGREEMENT OR THE ST ASSET CONTRIBUTION AGREEMENT (INCLUDING THE REPRESENTATIONS, WARRANTIES AND INDEMNITIES SET FORTH IN SUCH AGREEMENTS); *PROVIDED, HOWEVER*, THAT NOTHING HEREIN SHALL AFFECT THE RIGHTS AND REMEDIES OF ANY HOLDINGS INDEMNITEE FOR OR WITH RESPECT TO ANY BREACH OF SUCH AGREEMENTS.

#### **ARTICLE IV COVENANTS**

##### **4.1 Access to Information.**

(a) Between the Signing Date and the Closing, Intel agrees to provide the FP Parties and ST and their authorized representatives (including each of their attorneys and accountants and auditors) reasonable access to the offices and properties, employees and auditors of the Intel Business and the Intel Books and Records, upon reasonable prior notice, during normal business hours, under Intel's supervision and at the expense of ST or the FP Parties, as applicable, in order to conduct a review of the Intel Transferred Assets and the Intel Business.

(b) Between the Signing Date and the Closing, ST agrees to provide the FP Parties and Intel and their authorized representatives (including each of their attorneys and accountants and auditors) reasonable access to the offices and properties, employees and auditors of the ST Business and the ST Books and Records, upon reasonable prior notice, during normal business hours, under ST's supervision and at the expense of Intel or the FP Parties, as applicable, in order to conduct a review of the ST Transferred Assets and the ST Business.

(c) Each of the Parties will hold, and will cause its representatives to hold, in confidence all documents and information furnished to it by or on behalf of another Party in connection with the transactions contemplated by this Agreement and the other Transaction Documents pursuant to the terms of the Confidentiality Agreements;

*provided, however*, for the sake of clarification, that Intel and ST shall be permitted to respond to direct inquiries relating to the transaction from, and disclose the transaction immediately after the execution hereof to Intel Business Employees and ST Business Employees, respectively, and provided further that nothing herein shall prohibit any public announcement in accordance with Section 4.5 (Press Releases) hereof.

**4.2 Exclusive Dealing.** Prior to the earlier of the Closing or the termination of this Agreement, none of Intel, ST, or the FP Parties will, nor will any of them permit any of their respective Affiliates, officers, directors, agents or advisors to, directly or indirectly: (a) solicit, encourage, initiate or participate in any negotiations or discussions with respect to any possible debt or equity investment in the ST Business or the Intel Business or any possible sale, spin-off or other transfer of all or any material portion of the ST Business or the Intel Business (other than inventory sold in the ordinary course of business), whether by sale or transfer of assets, sale of stock, reorganization, merger or otherwise, other than in connection with the transactions contemplated by this Agreement and the other Transaction Documents including the Contemplated Financing (each such transaction described in this clause (a), a "Prohibited Transaction"); (b) provide or otherwise make available the corporate, legal or financial documents or information relating to the Intel Business, the ST Business or Holdings or any of its Affiliates or any analysis or summary thereof of Holdings or its Affiliates, or Intel or ST or any of their respective Affiliates, to any Person who has expressed an interest in making a proposal to enter into any Prohibited Transaction or who could reasonably be expected to consider doing so; (c) assist or cooperate with any Person in making any proposal with respect to any Prohibited Transaction; or (d) enter into any Contract with any Person providing for any Prohibited Transaction. In the event that Intel, ST, any of the FP Parties or any of their respective Affiliates, officers, directors, agents or advisors shall receive after the Signing Date any offer or proposal with respect to any Prohibited Transaction, directly or indirectly, or any request for disclosure or access to any documents or information described in clause (b) above, such Party shall or shall cause its Affiliate, officer, director, agent or advisor to immediately inform the other Parties of such offer or proposal, the identity of the Person making such offer or proposal and the material terms thereof.

**4.3 Reasonable Efforts.** Each of Intel, ST, and the FP Parties will cooperate and use commercially reasonable efforts to take, or cause to be taken, all appropriate actions (and to make, or cause to be made, all filings and notifications necessary, proper or advisable under Applicable Law) to consummate and make effective the transactions contemplated by this Agreement and the Transaction Documents, including commercially reasonable efforts to satisfy all closing conditions and to obtain, as promptly as practicable, all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Authorities and parties to contracts, as are necessary for the consummation of the transactions contemplated by this Agreement and the Transaction Documents to which it is a party.

**4.4 Certain Consents and Filings; Further Assurances** . Each Party agrees to execute and deliver, or cause to be executed and delivered, such other documents, certificates, agreements and other writings and to take, or cause to be taken, such other commercially reasonable actions as may be necessary or desirable in order to (a) consummate or implement expeditiously the transactions contemplated by this Agreement and the other Transaction Documents and (b) obtain from any Governmental Authorities and other Persons all consents,

approvals, authorizations, qualifications and orders as are necessary for the consummation of the transactions contemplated by this Agreement and the Transaction Documents and to promptly make all necessary filings and notifications, and to supply as promptly as practicable any additional information or documentary material that may be reasonably requested to comply with the HSR Act or any applicable Competition Law. Subject to Applicable Laws, and as necessary to address reasonable privilege or confidentiality concerns, prior to the making or submission of any analysis, appearance, presentation, memorandum, brief, argument, opinion or proposal by or on behalf of any Party in connection with Proceedings under or relating to the HSR Act or any other applicable Competition Law, each of Intel, ST, and the FP Parties will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, presentations, letters, white papers, memoranda, briefs, arguments, opinions or proposals. In this regard but without limitation, each Party hereto shall promptly inform the other of any material communication between such Party and the Federal Trade Commission, the Antitrust Division of the United States Department of Justice, or any other federal, foreign or state antitrust or competition Governmental Authority regarding the transactions contemplated by this Agreement or the Transaction Documents. Nothing in this Agreement or any of the other Transaction Documents, however, shall require or be construed to require any Party hereto, in order to obtain the consent or successful termination of any review of any such Governmental Authority regarding the transactions contemplated by this Agreement, to (x) sell or hold separate, or agree to sell or hold separate, before or after the Closing Date, any assets or businesses or any interests in any assets or businesses of such Party or any of its Affiliates (or to consent to any sale, or agreement to sell, any assets or businesses, or any interests in any assets or businesses), or to agree to any change in or restriction on the operation by such Party of any assets or businesses or (y) enter into any agreement or be bound by any obligation concerning the benefits to such Party of the transactions contemplated by this Agreement. Each party shall have responsibility for its respective filing fees associated with the filings under the HSR Act and any other filings required under the Competition Laws of any other jurisdictions in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents.

4.5 Press Releases. None of the Parties nor any of their respective Affiliates, officers, directors or securityholders shall issue any press release or otherwise make any public statement with respect to this Agreement, any of the Transaction Documents or any of the transactions contemplated hereby or thereby without the prior written consent of each of the other Parties, except as may be required by Applicable Law, or by the rules and regulations of, or pursuant to any agreement with, the NASDAQ Stock Market, the New York Stock Exchange or any other U.S. or non-U.S. securities exchange on which any securities of such Party are then listed or quoted. If any Party determines, with the advice of counsel, that it is required by Applicable Law to publicly disclose this Agreement, any of the Transaction Documents or any of the transactions contemplated by this Agreement or any of the other Transaction Documents, it shall, a reasonable time before making any public disclosure, consult with the other Parties regarding such disclosure and seek confidential treatment for such information to be so disclosed, as may be reasonably requested by any other Party. If any Party determines to make any public statements with respect to this Agreement, any of the Transaction Documents or any of the transactions contemplated hereby or thereby in accordance with the terms of this Agreement, then each other Party shall be entitled to make a public statement following such public statement; *provided* it coordinates the timing thereof with each other Party and obtains such other

Party's prior written approval of the contents thereof, not to be unreasonably withheld or delayed. The Parties agree to announce the execution of this Agreement to the employees, customers, vendors and strategic partners of the Intel Business and the ST Business at such time and in such form as is mutually agreed upon by all of the Parties. Any disclosure of the existence or terms of this Agreement, any of the Transaction Documents or any of the transactions contemplated hereby or thereby to any person from whom consent shall be required, to whom notice shall be provided or from whom waiver shall be sought in order to comply with the requirements of this Agreement or any of the other Transaction Documents shall be made at such time and in such form and with such content as is mutually agreed upon by all of the Parties.

4.6 Certain Deliveries and Notices. From the Signing Date through the Closing Date, each Party shall promptly inform in writing the other Parties of (a) any event or occurrence that would reasonably be expected to have a material adverse effect on its ability to perform its or their obligations under any of the Transaction Documents, and (b) any breach that cannot or will not be cured by the time of the Closing or failure to satisfy any condition or covenant contained in this Agreement or in any other Transaction Document by such Party, if such failure cannot or will not be cured by the time of the Closing.

4.7 Non-Solicitation of Employees.

(a) Prior to the Closing and until the earlier of the date that is two years following the Closing Date or two years following termination of this Agreement, without the prior written consent of Intel, ST shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, recruit or solicit any employee of Intel or any of its Subsidiaries identified on Schedule 4.7(a) to the Intel Master Agreement Disclosure Letter (collectively, for purposes of this Agreement, the "Intel Restricted Employees") to leave his or her employment with Intel or such Subsidiary.

(b) Prior to the Closing and until the earlier of the date that is two years following the Closing Date or the date that is two years following termination of this Agreement, without the prior written consent of ST, Intel shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, recruit or solicit any employee of ST or any of its Subsidiaries identified on Schedule 4.7(b) to the ST Master Agreement Disclosure Letter (collectively, for purposes of this Agreement, the "ST Restricted Employees") to leave his or her employment with ST or any such Subsidiary.

(c) Neither the placement of employment advertisements or other general solicitation for employees not specifically targeted to any Restricted Employee by any means, including through the use of hiring agencies or through employees of each Party who are unaware of the prohibitions against the solicitation of the Restricted Employees shall be a recruitment or solicitation prohibited by this Section 4.7; *provided* that any such hiring agencies and employees are not instructed by persons who knew about the prohibition on the solicitation of the Restricted Employees to solicit for hire Restricted Employees. If a Party (or any Subsidiary thereof) inadvertently violates the prohibition against the solicitation of Restricted Employees, such Party shall (or it shall cause its applicable Subsidiary to), as soon as it is aware it has committed a violation of this

section, notify the other Party who formerly employed such Restricted Employee and either withdraw any offer to the solicited individual or ensure that such person, if hired, is restricted from working on, consulting on, or having any knowledge with respect to matters which are designated by the Party who formerly employed such employee in its reasonable discretion as competitively sensitive matters, in which event such inadvertent action shall not be deemed to be a breach of this [Section 4.7](#) so long as there is no repetitive pattern of such actions.

#### 4.8 Tax Matters.

(a) Each Party hereto shall cooperate as reasonably requested by any other Party and at the requesting Party's sole cost, liability and expense, to maximize the tax efficiency of the transactions contemplated by this Agreement and the other Transaction Documents and the structure of each of Intel's (and/or its Affiliates), ST's (and/or its Affiliates) and any of the FP Parties' investment in Holdings or any of its Affiliates, subject to the terms of the Securityholders' Agreement. Requests made pursuant to this [Section 4.8\(a\)](#) shall not be deemed to be reasonable if they result in costs, liabilities and expense to any non-requesting Party (other than in insignificant amounts) that are not determinable with accuracy at the time of the request or that involve costs (other than in insignificant amounts) that will be incurred by any non-requesting Party in years following the year the first of such actions (or the first in a series of related actions) is requested.

(b) Upon the occurrence of a Consolidation, the successor to an entity that merges out of existence or liquidates in connection with such Consolidation shall succeed to all of such entity's rights and obligations under the Transaction Documents, and shall execute such joinders and other documents reasonably requested by the other Shareholders to evidence the same.

4.9 Operation of the Intel Business Prior to the Closing. Between the Signing Date and the Closing Date, except as contemplated by this Agreement or any other Transaction Document or as set forth in [Schedule 4.9](#) of the Intel Master Agreement Disclosure Letter, or unless ST and the FP Parties shall otherwise agree in writing (which consent shall not be unreasonably withheld or delayed), Intel shall, and shall cause its Subsidiaries to, (x) operate the Intel Business in the ordinary course of business in all material respects and (y) continue to make capital expenditures which are, in the aggregate, consistent in all material respects with the Intel Business Capital Expenditures Plan. Between the Signing Date and the Closing Date, except as otherwise agreed in this Agreement or any other Transaction Document or as set forth in [Schedule 4.9](#) of the Intel Master Agreement Disclosure Letter, unless ST and the FP Parties shall otherwise consent in writing (which consent shall not be unreasonably withheld or delayed), Intel shall, and shall cause its Subsidiaries to:

- (a) pay the material debts and Taxes of the Intel Business and the Intel Transferred Entities in the ordinary course of business;
- (b) use commercially reasonable efforts to (i) maintain the tangible fixed assets included in the Intel Transferred Assets as a whole in all material respects in at least as

good condition as they are being maintained on the Signing Date, subject to normal wear and tear, (ii) maintain in effect all material Permits and Governmental Approvals of the Intel Business, (iii) not terminate, other than for cause, nor materially decrease the compensation of, the key executives of the Intel Business, and (iv) maintain satisfactory relationships with the customers, partners, suppliers and others having material business relationships with the Intel Business;

(c) not sell, assign, or transfer any of the Intel Transferred Assets, or license any of the Intel Transferred Intellectual Property, except, in each case, in the ordinary course of business and except for the transfer of Intel Transferred Assets to Intel Transferred Entities as contemplated or permitted hereby, and not permit any of the Intel Transferred Assets to be subjected (whether by action or omission) to any Lien, other than the Permitted Liens;

(d) not sell, assign, or transfer any of the Intel Transferred Interests and not permit any of the Intel Transferred Interests to be subjected to any Share Encumbrances;

(e) not fail to pay or discharge when due any Liability of which the failure to pay or discharge would cause any material damage or loss to the Intel Transferred Assets and the Intel Transferred Entities, taken as a whole;

(f) not waive or amend any material term of or terminate any material Intel Transferred Contract or relinquish any material rights thereunder, other than in the ordinary course of business;

(g) not make any material change in its accounting principles, methods or practices relating to the Intel Business, and maintain the Intel Books and Records in the usual, regular and ordinary manner on a basis consistent with prior years, except, in either case, for any change required by a change in GAAP, a change in the accounting practices of Intel generally, or a change resulting from the preparation of the Intel Business Audited Financial Statements;

(h) not grant to any Intel Business Employee any increase in compensation or in severance or termination pay, grant any severance or termination pay (or amend in any material respect any existing arrangement for the foregoing), or enter into any employment deferred compensation or similar agreement with any such employee, except as may be required under Applicable Law, any termination policy of Intel (whether existing as of the Signing Date or adopted hereafter) or any employment or termination agreement in effect on the Signing Date or in the ordinary course of business, or establish, adopt or amend (except as required by Applicable Law) any collective bargaining, bonus, profit-sharing, thrift, pension, retirement, deferred compensation, compensation, stock option, restricted stock or other benefit plan or arrangement covering any director, officer or employee of the Intel Business, that is material in the aggregate to the Intel Business;

(i) not enter into or renew (other than automatic renewal) any Intel Transferred Contracts that exclusively relate to the Intel Business that provide for payment



obligations (whether by Intel or any of its Subsidiaries or the counterparty thereto) that are material, in the aggregate, to the Intel Business, except for those described in the Intel Business Capital Expenditures Plan;

(j) not make any acquisition, directly or indirectly, of all or substantially all of the assets of any business or equity interests in any Person or any business, whether by merger, consolidation or otherwise, that relates to the Intel Business;

(k) not incur any additional Intel Transferred Liabilities for capital expenditures that are material, in the aggregate, to the Intel Business, except for those described in the Intel Business Capital Expenditures Plan;

(l) not make any loans or advances to or capital contributions or investments in, any other Person with respect to the Intel Business that are material in the aggregate to the Intel Business, other than in the ordinary course of business or as contemplated by the Transaction Documents;

(m) not agree to any exclusivity, non-competition or similar provision or covenant restricting the Intel Business from competing in any line of business or with any Person or in any location or engaging in any activity or business (including with respect to the development, manufacture, marketing or distribution of their respective products or services), or pursuant to which any benefit or right is required to be given or lost as a result of so competing or engaging, the effect of which would be binding on Holdings or any of its Affiliates after the Closing Date;

(n) not settle, or make a binding offer to settle, any material Claim or Proceeding relating to the Intel Business unless such settlement would not encumber any assets of Holdings or any of its Affiliates, impose any obligation or other Liability on Holdings or any of its Affiliates, impose any restriction that would apply to Holdings or any of its Affiliates or the conduct of the Numonyx Business or include any acknowledgment of validity, enforceability, infringement or Claim interpretation with regard to any of the Intellectual Property relating to such Claim or Proceeding;

(o) not engage in (i) any trade loading practices or any other promotional sales or discount activity with any customers or distributors with any intent of accelerating to prior fiscal quarters (including the current fiscal quarter) sales to the trade or otherwise than would otherwise reasonably be expected to occur in subsequent fiscal quarters, or (ii) any other promotional sales or discount activity, in each case, in a manner outside the ordinary course of business, and not significantly inconsistent with past practices;

(p) maintain sales incentive plans and programs and sales quotas or incentives for Intel Products, in each case, in the ordinary course of business, and not significantly inconsistent with past practices;

(q) use commercially reasonable efforts to prevent any representation or warranty of Intel hereunder or under the Intel Asset Transfer Agreement from being inaccurate in any material respect at the Closing; *provided, however*, that this covenant

shall not be satisfied solely by virtue of any amendment of any schedule to the Intel ATA Disclosure Letter; and

(r) not enter into any agreement to take any action that would violate in any material respect any of the foregoing.

For purposes of Sections 4.9(a)-(f), and (i), all references therein to “Intel Transferred Assets,” “Intel Transferred Entities,” “Intel Transferred Interests,” “Intel Transferred Intellectual Property,” and “Intel Transferred Contracts,” shall be deemed to mean all applicable assets or properties owned by Intel or any of its Subsidiaries prior to the Closing which would be included in the applicable section of the Intel ATA Disclosure Letter on the Determination Date if such asset or property was owned by Intel or any of its Subsidiaries on the Determination Date.

4.10 Operation of the ST Business Prior to the Closing. Between the Signing Date and the Closing Date, except as contemplated by this Agreement or any other Transaction Document or as set forth in Schedule 4.10 of the ST Master Agreement Disclosure Letter, or unless Intel and the FP Parties shall otherwise agree in writing (which consent shall not be unreasonably withheld or delayed), ST shall, and shall cause its Subsidiaries to, (x) operate the ST Business in the ordinary course of business in all material respects (y) continue to make capital expenditures which are, in the aggregate, consistent in all material respects with the ST Business Capital Expenditures Plan. Between the Signing Date and the Closing Date, except as otherwise agreed in this Agreement or any other Transaction Document or as set forth in Schedule 4.10 of the ST Master Agreement Disclosure Letter, unless Intel and the FP Parties shall otherwise consent in writing (which consent shall not be unreasonably withheld or delayed), ST shall, and shall cause its Subsidiaries to:

(a) pay the material debts and Taxes of the ST Business and the ST Transferred Entities in the ordinary course of business;

(b) use commercially reasonable efforts to (i) maintain the tangible fixed assets included in the ST Transferred Assets as a whole in all material respects in at least as good condition as they are being maintained on the Signing Date, subject to normal wear and tear, (ii) maintain in effect all material Permits and Governmental Approvals of the ST Business, (iii) not terminate, other than for cause, nor materially decrease the compensation of, the key executives of the ST Business, and (iv) maintain satisfactory relationships with the customers, partners, suppliers and others having material business relationships with the ST Business;

(c) not sell, assign, or transfer any of the ST Transferred Assets, or license any of the ST Transferred Intellectual Property, except, in each case, in the ordinary course of business and except for the transfer of ST Transferred Assets to ST Transferred Entities as contemplated or permitted hereby, and not permit any of the ST Transferred Assets to be subjected (whether by action or omission) to any Lien, other than the Permitted Liens;

(d) not sell, assign, or transfer any of the ST Transferred Interests and not permit any of the ST Transferred Interests to be subjected to any Share Encumbrances;

(e) not fail to pay or discharge when due any Liability of which the failure to pay or discharge would cause any material damage or loss to the ST Transferred Assets and the ST Transferred Entities, taken as a whole;

(f) not waive or amend any material term of or terminate any material ST Transferred Contract or relinquish any material rights thereunder, other than in the ordinary course of business;

(g) not make any material change in its accounting principles, methods or practices relating to the ST Business, and maintain the ST Books and Records in the usual, regular and ordinary manner on a basis consistent with prior years, except, in either case, for any change required by a change in GAAP, a change in the accounting practices of ST generally, or a change resulting from the preparation of the ST Business Audited Financial Statements;

(h) not grant to any ST Business Employee any increase in compensation or in severance or termination pay, grant any severance or termination pay (or amend in any material respect any existing arrangement for the foregoing), or enter into any employment deferred compensation or similar agreement with any such employee, except as may be required under Applicable Law, any termination policy of ST (whether existing as of the Signing Date or adopted hereafter) or any employment or termination agreement in effect on the Signing Date or in the ordinary course of business, or establish, adopt or amend (except as required by Applicable Law) any collective bargaining, bonus, profit-sharing, thrift, pension, retirement, deferred compensation, compensation, stock option, restricted stock or other benefit plan or arrangement covering any director, officer or employee of the ST Business, that is material in the aggregate to the ST Business;

(i) not enter into or renew (other than automatic renewal) any ST Transferred Contracts that exclusively relate to the ST Business that provides for payment obligations (whether by ST or any of its Subsidiaries or the counterparty thereto) that are material, in the aggregate, to the ST Business, except for those described the ST Business Capital Expenditures Plan;

(j) not make any acquisition, directly or indirectly, of all or substantially all of the assets of any business or equity interests in any Person or business, whether by merger, consolidation or otherwise, that relates to the ST Business;

(k) not incur any additional ST Transferred Liabilities for capital expenditures that are material, in the aggregate, to the ST Business, except for those described in the ST Business Capital Expenditures Plan;

(l) not make any loans or advances to or capital contributions or investments in, any other Person with respect to the ST Business that are material in the aggregate to the ST Business, other than in the ordinary course of business or as contemplated by the Transaction Documents;

(m) not agree to any exclusivity, non-competition or similar provision or covenant restricting the ST Business from competing in any line of business or with any Person or in any location or engaging in any activity or business (including with respect to the development, manufacture, marketing or distribution of their respective products or services), or pursuant to which any benefit or right is required to be given or lost as a result of so competing or engaging, the effect of which would be binding on Holdings or any of its Affiliates after the Closing Date;

(n) not settle, or make any binding offer to settle, any material Claim or Proceeding relating to the ST Business unless such settlement would not encumber any assets of Holdings or any of its Affiliates, impose any obligation or other Liability on Holdings or any of its Affiliates, impose any restriction that would apply to Holdings or any of its Affiliates or the conduct of the Numonyx Business or include any acknowledgment of validity, enforceability, infringement, or Claim interpretation with regard to any of the Intellectual Property relating to such Claim or Proceeding;

(o) not engage in (i) any trade loading practices or any other promotional sales or discount activity with any customers or distributors with any intent of accelerating to prior fiscal quarters (including the current fiscal quarter) sales to the trade or otherwise than would otherwise reasonably be expected to occur in subsequent fiscal quarters, (ii) any other promotional sales or discount activity, (iii) any practice which would have the effect of accelerating to the period prior to the Closing collections of receivables of any ST Transferred Entity that would otherwise be reasonably expected (based on past practice) to be made after the Closing, or (iv) any practice which would have the effect of postponing to the period after the Closing payments by any ST Transferred Entity that would otherwise be reasonably expected (based on past practice) to be made in the period prior to the Closing, in each case, in a manner outside the ordinary course of business, and not significantly inconsistent with past practices;

(p) maintain sales incentive plans and programs and sales quotas or incentives for ST Products, in each case, in the ordinary course of business, and not significantly inconsistent with past practices;

(q) use commercially reasonable efforts to prevent any representation or warranty of ST hereunder or under the ST Asset Contribution Agreement from being inaccurate in any material respect at the Closing; *provided, however*, that this covenant shall not be satisfied solely by virtue of any amendment of any schedule to the ST ACA Disclosure Letter; and

(r) not enter into any agreement to take any action that would violate in any material respect any of the foregoing.

For purposes of Sections 4.10(a)-(f), and (i), all references therein to “ST Transferred Assets,” “ST Transferred Entities,” “ST Transferred Interests,” “ST Transferred Intellectual Property,” and “ST Transferred Contracts,” shall be deemed to mean all applicable assets or properties owned by ST or any of its Subsidiaries prior to the Closing which would be included

in the applicable section of the ST ACA Disclosure Letter on the Determination Date if such asset or property was owned by ST or any of its Subsidiaries on the Determination Date.

#### 4.11 Employee Matters.

(a) Employment Offers. Subject to Applicable Law, prior to the Closing, or such other period of time after the Signing Date as may be reasonably agreed by Intel, ST and FP, Holdings or any of its Subsidiaries may make offers of employment to Intel Business Employees (other than any Intel Excluded Employees) and ST Business Employees (other than any ST Excluded Employees), to be effective as of the Closing or on such later date specified in the offer as may reasonably be agreed by Holdings, Intel, ST and FP; *provided* that to the extent permitted by Applicable Law, the offers to any inactive Intel Business Employee or ST Business Employee shall be effective on the date such Business Employee returns to active employment or such earlier date as may be reasonably requested by Holdings or one of its Subsidiaries and agreed by Intel (with respect to Intel Business Employees) or ST (with respect to ST Business Employees). Notwithstanding the foregoing, ST Designated Employees (to the extent employed by ST immediately prior to the Closing) shall automatically transfer to Holdings or one of its Subsidiaries on the Closing (or if such ST Designated Employee is inactive, at such time as specified by Applicable Law). Schedule 4.11(a) of the ST Master Agreement Disclosure Letter sets forth the ST Designated Employees. Notwithstanding anything in this Agreement to the contrary, in no event shall the acceptance of employment by any Intel Business Employee or ST Business Employee be a condition to the Closing. The offers of employment for each such Intel Business Employee (other than Intel Excluded Employees) and ST Business Employee (other than ST Excluded Employees) will (i) be subject to requirements of Applicable Law for the jurisdiction in which the Intel Business Employee or ST Business Employee is located and include employment terms reasonably determined by Holdings or one of its Subsidiaries, as the case may be, and (ii) supersede, to the extent permitted by Applicable Law any prior agreements regarding the terms and conditions of employment with such Intel Business Employee or ST Business Employee as in effect prior to the Closing Date; *provided, however*, that in no event shall any prior agreement with respect to Intellectual Property be superseded, except that unless otherwise agreed by Intel and Numonyx or ST and Holdings, as the case may be, all Intel Transferred Employees and ST Transferred Employees shall be permitted to disclose to Holdings or any of its Subsidiaries all information in their possession or otherwise known by them which is directly related to the Intel Business or ST Business, as applicable, and not related to Patents or Confidential Information of Intel or ST, respectively, in each case, to the extent not an Intel Transferred Asset or ST Transferred Asset. As of the Closing Date, the Intel Transferred Entities shall employ only Intel Transferred Employees, and the ST Transferred Entities shall employ only ST Transferred Employees.

(b) Excluded Employees; Allocated Positions. Prior to the Closing, the Parties shall cooperate in good faith, and in accordance with the provisions set forth in Schedule 4.11(b) of each of the Intel Master Agreement Disclosure Schedule and the ST Master Agreement Disclosure Schedule, to (i) identify those Intel Business Employees to whom an employment offer shall not be made pursuant to Section 4.11(a), (collectively, the

“Intel Excluded Employees”) and those ST Business Employees to whom an employment offer shall not be made pursuant to Section 4.11(a) (collectively, the “ST Excluded Employees”), (ii) identify such other employees of Intel and ST who shall be offered Numonyx Allocated Positions and (iii) avoid any transfer of employees to Holdings or any of its Subsidiaries in excess of the number of employees reasonably necessary to operate the Numonyx Business at the Closing.

(c) Executive Agreements. Intel, ST and the FP Parties agree to recommend to Holdings that, prior to the Closing, Holdings and its Subsidiaries should (i) negotiate in good faith offers of employment with the individuals identified in Schedule 4.11(c) of each of the Intel Master Agreement Disclosure Letter and ST Master Agreement Disclosure Letter for the positions identified on such Schedule; and (ii) adopt and execute employment and severance agreements with such individuals in substantially the forms attached to Schedule 4.11(c) to each of the Master Agreement Disclosure Letters, to be effective on the later of (i) the Closing Date as of the Effective Time, or (ii) such later date as may reasonably be agreed by Holdings, Intel, ST, and the FP Parties.

(d) Employee Information and Access. Each of Intel and ST agrees to provide to each other and to the FP Parties and Holdings and its Subsidiaries certain general information concerning their respective compensation and benefit programs and specific information relating to individual Business Employees, subject to Applicable Law and, to the extent required, any such employee’s proper consent, solely for the purpose of Numonyx or its Subsidiaries formulating offers of employment to such employees; *provided, however*, that neither Intel nor ST will make personnel records available for inspection or copying except with respect to Intel Transferred Employees who are employed by an Intel Transferred Entity as of the Closing Date and ST Transferred Employees who are employed by an ST Transferred Entity as of the Closing Date.

(e) Equity Plan. The Parties shall cause Holdings to implement the Equity Plan at or prior to the Closing.

#### 4.12 Additions to and Modifications of Schedules.

(a) Unless otherwise agreed by the Parties, if on any date on or prior to the date two Business Days prior to the Closing Date (the “Determination Date”), any of the information provided by Intel in any of the Specified Intel Schedules or by ST in any of the Specified ST Schedules, as the case may be, is not true, accurate and complete in all material respects on and as of such date, the Party that provided such schedule shall be entitled to amend such schedule to make additions to or modifications of such schedule necessary to make the information set forth therein true, accurate and complete in all material respects and shall promptly deliver such amended schedule to the other Party, and such schedule shall be deemed amended to reflect such additions and modifications for all purposes. If any of the Specified Intel Representations made by Intel, the Specified ST Representations made by ST, or the Specified Holdings Representations made by Holdings or Numonyx, as the case may be, would not be true, accurate and complete in all material respects on and as of the Closing Date unless additional information with respect thereto were set forth in a new schedule not previously included

in the applicable Disclosure Letter, such Party shall be entitled to amend such Disclosure Letter to add such new schedule, and shall promptly deliver such new schedule to the other Party, which schedule shall thereupon be deemed to be a part of such Disclosure Letter for all purposes.

(b) On the Determination Date, each of Intel and ST may, but shall not be obligated to, (i) amend and deliver to Holdings and Numonyx any schedule to the Intel ATA Disclosure Letter or ST ACA Disclosure Letter, as applicable, upon which any Intel Transferred Assets or ST Transferred Assets described in Section 2.1 (and to the extent of such amendments, any Liabilities associated with such Intel Transferred Assets or ST Transferred Assets that would be Intel Transferred Liabilities or ST Transferred Liabilities under Section 2.3 of the Intel Asset Transfer Agreement or ST Asset Contribution Agreement, as the case may be, including Liabilities under any Intel Transferred Contract or ST Transferred Contract included in such amendment, shall be Intel Transferred Liabilities or ST Transferred Liabilities, as applicable) of each of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement are listed or identified, and (ii) deliver any such new schedule to the Intel ATA Disclosure Letter or ST ACA Disclosure Letter, as applicable, upon which any Intel Transferred Assets or ST Transferred Assets described in Section 2.1 (and to the extent of such amendments, any Liabilities associated with such Intel Transferred Assets or ST Transferred Assets that would be Intel Transferred Liabilities or ST Transferred Liabilities under Section 2.3 of the Intel Asset Transfer Agreement or ST Asset Contribution Agreement, as the case may be, including Liabilities under any Intel Transferred Contract or ST Transferred Contract included in such amendment, shall be Intel Transferred Liabilities or ST Transferred Liabilities, as applicable) of each of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement are listed or identified, if Intel or ST, as the case may be, in its sole discretion, determines that such amendments will provide greater assurances that the representations made by Intel in Section 3.17 (Intel Transferred Assets) of the Intel Asset Transfer Agreement and by ST in Section 3.17 (ST Transferred Assets) of the ST Asset Contribution Agreement, respectively, are accurate on the Closing Date, or in order that each such schedule shall more accurately reflect the removal of any assets or Liabilities on any such schedule which have, in the ordinary course of the Intel Business or the ST Business, as the case may be, ceased to exist or which have been disposed of or extinguished by the Intel Business or the ST Business in accordance with Section 4.9 and Section 4.10, respectively, as applicable, in the ordinary course of business between the Signing Date (or, if such schedule was prepared as of an earlier date, such earlier date) and the Determination Date.

(c) On or within 30 days after the Closing Date, each of Intel and ST may (i) further amend and deliver to Holdings and Numonyx any schedule to the Intel ATA Disclosure Letter or ST ACA Disclosure Letter, as applicable, upon which any Intel Transferred Assets or ST Transferred Assets described in Section 2.1 (and to the extent of such amendments, any Liabilities associated with such Intel Transferred Assets or ST Transferred Assets that would be Intel Transferred Liabilities or ST Transferred Liabilities under Section 2.3 of the Intel Asset Transfer Agreement or ST Asset Contribution Agreement, as the case may be, including Liabilities under any Intel Transferred Contract or ST Transferred Contract included in such amendment, shall be

Intel Transferred Liabilities or ST Transferred Liabilities, as applicable) of each of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement are listed or identified, and (ii) deliver any such new schedule to the Intel ATA Disclosure Letter or ST ACA Disclosure Letter, as applicable, upon which any Intel Transferred Assets or ST Transferred Assets described in Section 2.1 (and to the extent of such amendments, any Liabilities associated with such Intel Transferred Assets or ST Transferred Assets that would be Intel Transferred Liabilities or ST Transferred Liabilities under Section 2.3 of the Intel Asset Transition Agreement or ST Asset Contribution Agreement, as the case may be, including Liabilities under any Intel Transferred Contract or ST Transferred Contract included in such amendment, shall be Intel Transferred Liabilities or ST Transferred Liabilities, as applicable) of each of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement are listed or identified, if Intel or ST, as the case may be, in its sole discretion, determines that such amendments will provide greater assurances that the representations made by Intel in Section 3.17 (Intel Transferred Assets) of the Intel Asset Transfer Agreement and by ST in Section 3.17 (ST Transferred Assets) of the ST Asset Contribution Agreement, respectively, are accurate as of the Closing Date, or in order that, each such schedule shall more accurately reflect the removal of any assets or Liabilities on any such schedule which have, in the ordinary course of the Intel Business or the ST Business, as the case may be, ceased to exist or which have been disposed of or extinguished by the Intel Business or the ST Business, as applicable, in the ordinary course of business between the Determination Date (or, if such schedule was prepared as of an earlier date, such earlier date) and the Closing Date in accordance with Section 4.9 and Section 4.10, respectively.

(d) For any additions or modifications made by a Party (i) to correct inaccuracies of the Specified Intel Representations or Specified ST Representations, as the case may be (including those representations and warranties which are expressed with respect to a date prior to the Signing Date) for facts, events or circumstances occurring prior to or existing on and as of the Signing Date, and, in the case of a representation or warranty made to the Knowledge of a Party, of which such Party had Knowledge on and as of the Signing Date, (ii) to reflect any facts, events or circumstances which resulted from a breach of Section 4.9 or Section 4.10 hereof, as applicable, or (iii) to update, correct or otherwise modify any of the representations set forth in Section 3.2 (Authorization and Enforceability), Section 3.4 (Non-contravention), Section 3.7 (Litigation), Section 3.9 (Compliance with Applicable Laws), Section 3.10 (Tax Matters), Section 3.11 (Intellectual Property), Section 3.13 (Financial Information), Section 3.14 (Absence of Certain Changes), Section 3.17 (Intel Transferred Assets or ST Transferred Assets, as applicable), Section 3.20 (Inventories), Section 3.21 (Advisory Fees), Section 3.22 (Transferred Entities and Transferred Interests) and Section 3.23 (Investment Representations) of the Intel Asset Transfer Agreement or ST Asset Contribution Agreement, then in each such case, Holdings and its Subsidiaries shall be entitled to indemnification therefor pursuant to, and subject to the limitations set forth in, Article VI of the Intel Asset Transfer Agreement or ST Asset Contribution Agreement, as applicable, to the same extent as if such additions and modifications had not been made.

(e) Notwithstanding anything in this Agreement to the contrary, any addition or modification to the Specified Intel Schedules and/or the Specified ST Schedules shall be



disregarded for purposes of determining whether (i) the conditions set forth in Section 5.1(a) (Performance by ST) shall have been satisfied in respect of the representations and warranties set forth in Section 3.14(i) (Absence of Certain Changes) of the ST Asset Contribution Agreement, (ii) the conditions set forth in Section 5.2(a) (Performance by Intel) shall have been satisfied in respect of the representations and warranties set forth in Section 3.14(i) (Absence of Certain Changes) of the Intel Asset Transfer Agreement, and (iii) the conditions set forth in Section 5.3(a) (Performance by Intel) and Section 5.3(b) (Performance by ST) shall have been satisfied in respect of the representations and warranties set forth in Section 3.14(i) of the ST Asset Contribution Agreement or Section 3.14(i) of the Intel Asset Transfer Agreement.

(f) Other than as set forth in Section 4.12(a), (b), (c), and (d) without the consent of the other Party or Parties, as applicable, no Party may make any changes, supplements, amendments or modifications to any Disclosure Letter with respect to any fact, event or circumstance occurring after the Signing Date.

#### 4.13 Third Party Appraisal and Allocation: Dutch Auditors.

(a) As soon as practicable but no later than 20 days following the Signing Date, ST shall identify to Intel three “internationally-recognized” firms, at least two of which are “Big 4” firms reasonably believed not to have a conflict of interest; and (b) as soon as reasonably practicable, but no later than 10 days after the receipt of the names, Intel, in its sole discretion, shall select one of the firms (the “Third Party Appraisal Firm”) for each of Intel and ST to retain to perform the Third Party Appraisals.

(b) Intel and ST shall each select an office of the Third Party Appraisal Firm that will jointly: (i) value Holdings’ and its Subsidiaries’ net assets; and (ii) allocate the value of Holdings’ and its Subsidiaries’ net assets to Holdings’ individual assets and liabilities, in accordance with GAAP, which allocation shall become Holdings’ opening consolidated balance sheet.

(c) Each Party agrees to pursue and timely obtain, or to cause Holdings or its Affiliates to pursue and timely obtain, such auditor’s certificates pursuant to article 2.204b and 2.204c (as applicable) of the Dutch Civil Code as are required to give effect to the transactions contemplated in this Agreement and the other Transaction Documents.

#### 4.14 Notices of Certain Intel Events. Intel shall promptly notify ST and the FP Parties of:

(a) any notice or other communication from any Person alleging the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement or the Intel Asset Transfer Agreement to the extent such consent would have been required to have been disclosed on Schedule 3.8(b) of the Intel ATA Disclosure Letter;

(b) any notice or other communication from any Governmental Authority regarding any material Governmental Approval in connection with the transactions contemplated by this Agreement;

(c) any Claims, investigations or Proceedings commenced or, to its Knowledge, threatened against, relating to or involving or otherwise affecting Intel or the Intel Business that, if pending on the Signing Date, would have been required to have been disclosed pursuant to Section 3.7 (Litigation) of the Intel Asset Transfer Agreement or that challenge or in any manner seek to prohibit the transactions contemplated hereby or the consummation of the Closing; and

(d) any damage, destruction or other casualty loss that is material to the Intel Transferred Assets, taken as a whole;

*provided, however,* that the delivery of any notice pursuant to this Section 4.14 shall not limit or otherwise affect the remedies available to Holdings or Numonyx under the Intel Asset Transfer Agreement.

4.15 Notices of Certain ST Events. ST shall promptly notify Intel and the FP Parties of:

(a) any notice or other communication from any Person alleging the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement or the ST Asset Contribution Agreement to the extent such consent would have been required to have been disclosed on Schedule 3.8(b) of the ST ACA Disclosure Letter;

(b) any notice or other communication from any Governmental Authority regarding any material Governmental Approval in connection with the transactions contemplated by this Agreement;

(c) any Claims, investigations or Proceedings commenced or, to its Knowledge, threatened against, relating to or involving or otherwise affecting ST or the ST Business that, if pending on the Signing Date, would have been required to have been disclosed pursuant to Section 3.7 (Litigation) of the ST Asset Contribution Agreement or that challenge the consummation of the transactions contemplated hereby or thereby;

(d) any damage, destruction or other casualty loss that is material to the ST Transferred Assets, taken as a whole;

*provided, however,* that the delivery of any notice pursuant to this Section 4.15 shall not limit or otherwise affect the remedies available to Holdings or Numonyx under the ST Asset Contribution Agreement.

4.16 Holdings and Numonyx Formation and Preparation. As soon as reasonably practicable following the expiration or termination of the waiting period (and any extension thereof) applicable to the consummation of the transactions contemplated hereby under the HSR Act and any other applicable similar merger notification laws or regulations of foreign Governmental Authorities, the Parties hereto shall take any and all actions necessary in order to incorporate Holdings as a private company with limited liability organized under the laws of The Netherlands and prepare Holdings and Numonyx to commence their respective operations immediately following the Closing, including to:

(a) cause a civil law notary (i) to execute a deed of incorporation in a form reasonably agreed by the Parties (the "Holdings Deed of Incorporation") in which the Parties each shall be named as joint incorporators of Holdings, (ii) to register Holdings with the Dutch Trade Register and (iii) to execute deed(s) of issuance of shares in Holdings' capital, which shall reflect the shareholdings of the Parties in Holdings in the following manner: ST 48.58%, Intel 45.10% and, FP, in the aggregate, 6.32%, and (iv) take all other actions reasonably necessary in connection therewith;

(b) provide the initial capitalization to Holdings as provided in the Holdings Deed of Incorporation, which capitalization shall be at least equal to the minimum capitalization provided by the laws of The Netherlands, in the respective percentages as provided in subsection (a) above;

(c) cause a civil law notary (i) to execute a Numonyx deed of incorporation in a form reasonably agreed by the Parties (the "Numonyx Deed of Incorporation") in which a nominee (which shall be Freeland Corporate Advisors NV) of the Parties shall be named as incorporator of Numonyx, (ii) to register Numonyx with the Dutch Trade Register, (iii) take receipt of a fully executed deed of transfer of all shares of Numonyx owned by such nominee to Holdings, (iv) register the transfer of the shares from the nominee to Holdings with the Dutch Trade Register and in share registry of Numonyx and (v) take all other actions reasonably necessary in connection therewith;

(d) arrange for the nominee to provide the initial capitalization to Numonyx as provided in the Numonyx Deed of Incorporation, which capitalization shall be at least equal to the minimum capitalization provided by the laws of The Netherlands, and for payment by Holdings to the nominee in exchange for the transfer of shares of Numonyx from such nominee to Holdings;

(e) establish upon incorporation of Numonyx and transfer of shares to Holdings, the Management Board of Numonyx which shall, prior to the Closing, have a sole Managing Director who shall be Holdings;

(f) cause Holdings to purchase and maintain directors and officers insurance for Holdings and its Subsidiaries as required by Section 6.9 of the Securityholders' Agreement;

(g) establish upon incorporation of Holdings the Management Board of Holdings which shall, prior to the Closing, have a sole Managing Director, who shall be

FP Co. or such other Person designated by the Parties; *provided* that neither FP Co. nor such other Person designated by the Parties shall, in its capacity as the Managing Director of Holdings (which in turn shall be managing director of Numonyx), cause Holdings or Numonyx to take any action or execute any agreement or document that is not contemplated by this Agreement unless each of Intel and ST, and, if such other Person designated by the Parties is Managing Director, FP Co., shall consent thereto in writing, and in no event shall Holdings or Numonyx conduct operations or engage in the conduct of any business prior to the Closing except as contemplated herein; *provided, further*; that each of Intel and ST shall advance 50% of all costs or expenses incurred by or on behalf of the Managing Director on behalf of or for the benefit of Holdings in the performance of the activities set forth in this [Section 4.16](#) prior to the Closing, and immediately after the Closing, Holdings shall reimburse Intel and ST for all amounts so advanced; *provided, further* that prior to the Closing, to the maximum extent permitted by Applicable Law, the Managing Director of Holdings shall not be personally liable for any obligations of Holdings and ST and Intel shall each indemnify the Managing Director and (if applicable) its directors, officers, employees and agents, solely in respect of actions in its capacity as sole Managing Director (the "Indemnified Persons") against 50% of all Losses resulting from or arising out of, and shall hold the Indemnified Persons harmless from, any action taken or any failure to take any action at or prior to the Closing; *provided, however*, that no indemnification shall be provided to any Indemnified Person for a Loss if such Loss resulted primarily from any action not permitted by this Agreement or approved by Intel and ST and, if such other Person designated by the Parties is Managing Director, FP or resulted primarily from an act of fraud, dishonesty or other willful misconduct by an Indemnified Person; *provided, further*; that to the extent permitted by Applicable Law, 50% of all expenses (including legal fees) actually and reasonably incurred by an Indemnified Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by each of ST and Intel prior to the final disposition of such claim upon receipt by ST and Intel of an undertaking by or on behalf of an Indemnified Person to repay such amount if it shall be determined that the Indemnified Person is not entitled to be indemnified therefor pursuant to this [Section 4.16\(g\)](#);

(h) FP Co. or such other Person designated by the Parties, as the case may be, shall, in its capacity as Managing Director of Holdings (which in turn shall be managing director of Numonyx), cause Holdings or Numonyx, respectively, to take all actions required by this Agreement to be taken by Holdings or Numonyx, respectively, prior to the Closing and any other such actions as are reasonably necessary to consummate the transactions contemplated by this Agreement and the other Transaction Documents;

(i) vote at a general meeting of shareholders of Holdings the shares of which such Party is the registered holder or for which such Party shall otherwise have the ability to control or direct the voting thereof at any such general meeting of shareholders, or execute a written resolution with respect to such shares, in favor of any resolution required by or necessary pursuant to the Transaction Documents to effect the Closing; *provided*, that the foregoing shall not require any Party to waive any right that such Party has under any Transaction Document, or to consent (or withhold its consent) to any waiver requested by any party under any Transaction Document;

(j) FP Co. or such other Person designated by the Parties, as the case may be, shall, in its capacity as Managing Director, adopt any resolution required or necessary to be adopted by Holdings or Numonyx to effect the Closing, to the extent required by Applicable Law;

(k) cause Holdings or Numonyx to organize such Subsidiaries as reasonably requested by the Parties;

(l) cause Holdings or Numonyx to open bank accounts as reasonably requested by any Party in order to facilitate the actions set forth herein and to carry out the transactions contemplated by the Transaction Documents;

(m) cause Holdings to execute and deliver the Intel Option to Intel or a Subsidiary of Intel prior to the Closing Date;

(n) cause Holdings and its Affiliates to execute each Transaction Document to which Holdings or its Affiliates, respectively, is to become a party as well as any other instruments, certificates, authorizations and other documents or papers required to be executed and delivered by Holdings or its Affiliates, respectively, on or before the Closing;

(o) cause Holdings to execute any waivers or consents, including in connection with the waiver of closing conditions as set forth in the Transaction Documents, (i) with respect to any obligation or duty of ST, if Intel and FP Co. each consents in writing to Holdings granting such waiver or consent, (ii) with respect to any obligation or duty of Intel, if ST and FP Co. each consents in writing to Holdings granting such waiver or consent, and (iii) with respect to any obligation or duty of the FP Parties, if Intel and ST each consents in writing to Holdings granting such waiver or consent; *provided, further*, that Holdings shall refrain from executing or otherwise granting any waiver or consent without the prior written consent of the Parties as set forth in the preceding clause; and

(p) cause Holdings and its Affiliates, as applicable, to take all actions set forth in Section 2.10 (Deliveries by Holdings) of the Intel Asset Transfer Agreement and Section 2.10 (Deliveries by Holdings) of the ST Asset Contribution Agreement;

*provided* that, in addition to the provisions set forth above in this Section 4.16, the Parties shall use reasonable efforts to prevent Holdings and its Affiliates from taking any actions not set forth above without the prior consent of each of the Parties, which consent shall not be unreasonably withheld or delayed.

4.17 Holdings and Numonyx Tax Elections. The Parties agree that, unless Intel otherwise directs, (a) the organizational documents of Holdings shall authorize Holdings to elect, and Holdings will elect, effective upon its formation, to be treated as a partnership for U.S. income tax purposes, and (b) Numonyx will elect, effective upon its formation, to be treated as a disregarded entity for U.S. income tax purposes, and the Parties shall cooperate as reasonably requested by Intel (including by executing any such election) in order to effectuate such elections. The Parties acknowledge that any such election shall be filed on Internal Revenue Service Form 8832 (or any successor form) no later than 75 days after the formation under Dutch

law of Holdings or Numonyx, as the case may be. The Parties further agree that they will notify Intel prior to the direct or indirect acquisition or formation by Holdings or its Subsidiaries of any entity that will become a Subsidiary of Holdings, and shall cooperate as Intel may request to cause any such entity to be an “eligible entity” as defined in U.S. Treasury Regulation Section 301.7701-3(a) and to elect such tax status with respect to such entity (either as a disregarded entity, partnership or corporation) for U.S. federal income tax purposes as Intel may request, effective as of the date of formation of such entity unless otherwise requested by Intel.

4.18 Holdings Closing Reorganization. On or immediately prior to the Closing Date, the Parties shall cause Holdings to take or cause Numonyx to take the actions contemplated by Schedule 4.18 to each Master Agreement Disclosure Letter.

4.19 Cooperation with Financing. Each Party shall, and shall cause its Subsidiaries, and cause Holdings and its Subsidiaries, and their respective appropriate representatives to, provide, reasonable cooperation in connection with the arrangement of the Contemplated Financing and the Contributor Financing as may be reasonably requested by any other Party, including, using reasonable efforts to: (a) provide due diligence materials to the Numonyx Lenders or other potential financing sources for the Contemplated Financing or Contributor Financing; (b) assist Holdings and its Subsidiaries and their financing sources in the preparation, if applicable, of an offering document for such Contemplated Financing and materials for rating agency presentations; (c) cooperate with the marketing efforts of Holdings and its Subsidiaries and their financing sources for such Contemplated Financing; (d) provide such other documents as may be reasonably requested by Holdings and its Subsidiaries; and (e) facilitate the pledge of collateral owned by Holdings or its Subsidiaries to secure the Contemplated Financing at and after the Effective Time.

4.20 Environmental Consultants. As promptly as practicable (but in no event later than 40 days) after the Signing Date, (a) Intel shall select and engage the Environmental Consultant to conduct the ST Environmental Reports and (b) ST shall select and engage the Environmental Consultant to conduct the Intel Environmental Reports.

4.21 Hynix JV Matters. As soon as practicable following the Signing Date, ST shall agree to maintain such minimum ownership interest in Holdings for such minimum period of time (not to exceed two years) as Hynix may reasonably require in order for Numonyx to be a “Designated Third Party” for purposes of the agreements set forth in both (a) that certain letter agreement between Hynix and ST dated March 23, 2007 amending the Joint Venture Agreement, dated as of November 16, 2004 (as supplemented and amended by letter agreements dated April 8, 2005, April 19, 2005, April 27, 2005 and June 10, 2005) of the Hynix JV and (b) the Agreement on the Amendment of the Articles of Association of the Hynix JV between Hynix and ST dated March 23, 2007.

4.22 Facility Transfer Term Sheets.

(a) Intel shall, and shall cause its Subsidiaries to, effect the transfer of the Intel Transferred Real Property at the Closing in accordance with the terms of the Intel Facility Transfer Term Sheets attached to Schedule 4.22(a) of the Intel Master Agreement Disclosure Letter, subject to the terms and conditions thereof.

(b) ST shall, and shall cause its Subsidiaries to, effect the transfer of the ST Transferred Real Property at the Closing in accordance with the terms of the ST Facility Transfer Term Sheets attached to Schedule 4.22(b) of the ST Master Agreement Disclosure Letter, subject to the terms and conditions thereof.

4.23 Governmental Consents. From the Signing Date until the earlier of the Closing Date or the date upon which this Agreement is terminated in accordance with Section 6.1(c), Intel shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to take or cause to be taken all actions, and do or cause to be done all things necessary on their part to obtain the Governmental Consents on the terms and conditions that satisfy the requirements set forth in Schedule 5.1(f) of the Intel Master Agreement Disclosure Letter and Schedule 5.2(f) of the ST Master Agreement Disclosure Letter as soon as reasonably practicable, including preparing and filing as soon as reasonably practicable all documentation to effect all necessary notices, reports and other filings.

4.24 Release of Liens. On the Closing Date, the Intel Transferors and ST Transferors shall deliver the Intel Transferred Assets and ST Transferred Assets, respectively, to Holdings and its Subsidiaries free and clear of Liens, other than Permitted Liens, except as otherwise provided in the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement.

4.25 ST Litigation. ST shall be financially responsible for any and all costs and liabilities, including but not limited to license fees, royalties, and damages awarded by a court or administrative agency, that accrue in or as a result of Proceedings with respect to ST Products imported, used or sold prior to the Effective Time. Holdings and its Subsidiaries shall be financially responsible for any and all costs and liabilities, including but not limited to license fees, royalties, and damages awarded by a court or administrative agency, that accrue in or as a result of Proceedings with respect to ST Products imported, used or sold by Holdings or any of its Subsidiaries on or subsequent to the Effective Time. Notwithstanding the above, each Party shall be responsible for their respective legal fees and associated costs related to such Proceedings regardless of when incurred.

4.26 Intel Litigation. Intel shall be financially responsible for any and all costs and liabilities, including but not limited to license fees, royalties, and damages awarded by a court or administrative agency, that accrue in or as a result of Proceedings with respect to Intel Products imported, used or sold prior to the Effective Time. Holdings and its Subsidiaries shall be financially responsible for any and all costs and liabilities, including but not limited to license fees, royalties, and damages awarded by a court or administrative agency, that accrue in or as a result of Proceedings with respect to Intel Products imported, used or sold by Holdings or any of its Subsidiaries on or subsequent to the Effective Time. Notwithstanding the above, each Party shall be responsible for their respective legal fees and associated costs related to such Proceedings regardless of when incurred.

4.27 Confidentiality Agreements. As soon as reasonably practicable prior to the Closing, the Parties shall cause Holdings, on behalf of itself and its Subsidiaries, to become a party to each of the Confidentiality Agreements to which it is contemplated to be a party.

4.28 Further Assurances. Each Party agrees to execute and deliver, or cause to be executed and delivered, such other documents, certificates, agreements and other writings and to take, or cause to be taken, such other commercially reasonable actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement.

## ARTICLE V CONDITIONS TO CLOSING

5.1 Conditions to Obligations of Intel. The obligations of Intel to consummate the Closing are subject to the satisfaction or waiver of each of the following conditions:

(a) Performance by ST. (i) ST shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing Date, (ii) the representations and warranties of ST contained in Section 3.2 shall be true and correct at and as of the Closing as if made at and as of the Closing Date (rather than at and as of the Signing Date); *provided, however*, that those representations and warranties set forth in Sections 3.1 — 3.24 of the ST Asset Contribution Agreement (incorporated herein by reference) and which within such sections address matters only as of a certain date specific shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or ST Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an ST Material Adverse Effect, and (iii) Holdings shall have received a certificate signed by a duly authorized executive officer of ST to the foregoing effect.

(b) Performance by the FP Parties. (i) Each of the FP Parties shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing Date, (ii) the representations and warranties of the FP Parties contained in Section 3.3 shall be true and correct at and as of the Closing as if made at and as of such date (other than those representations and warranties which address matters only as of a certain date which shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or FP Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an FP Material Adverse Effect, and (iii) Holdings shall have received a certificate signed by a duly authorized executive officer of each of the FP Parties to the foregoing effect.

(c) No Violation. No Governmental Authority shall have enacted, issued, promulgated or entered any Applicable Law which is in effect on the Closing Date which has or would have the effect of prohibiting, restraining or enjoining the consummation of the transactions contemplated by this Agreement. No temporary restraining order, preliminary or permanent injunction, cease and desist order or other order issued by any court or other Governmental Authority that has the effect of making the transactions



contemplated hereby illegal or otherwise prohibiting consummation of the transfers contemplated hereby or the consummation of the Closing, or imposing upon Intel material fines or penalties in respect thereof, shall be in effect as of the Closing Date, and there shall be no pending or threatened actions or proceedings by any Governmental Authority (or determinations by any Governmental Authority) challenging or in any manner seeking to prohibit the transfer contemplated hereby or the consummation of the Closing.

(d) Transaction Documents. Each of ST, the FP Parties, Holdings and Numonyx (and each of their respective Affiliates) shall have executed and delivered to Intel each Transaction Document to which each of them, respectively, is a party.

(e) Governmental Approvals. The waiting period (and any extension thereof) applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated, and any waiting period (and any extension thereof) under any other applicable similar merger notification laws or regulations of foreign Governmental Authorities shall have expired or been terminated. Any Governmental Approvals required under any such laws or regulations in connection with the consummation of the transactions contemplated hereby shall have been obtained.

(f) Consents. Intel shall have received the Consents identified on Schedule 5.1(f) of the Intel Master Agreement Disclosure Letter on terms and conditions that satisfy the requirements set forth in Schedule 5.1(f) of the Intel Master Agreement Disclosure Letter.

(g) No ST Material Adverse Effect. There shall not have occurred since the Signing Date any ST Material Adverse Effect that is continuing, and Holdings shall have received a certificate signed by a duly authorized executive officer of ST to the foregoing effect.

(h) Audited Financial Statements. ST shall have delivered to Intel audited statements of revenue and direct expenses for the ST Business for the years ended December 31, 2005 and December 31, 2006, and the following balance sheet captions: accounts receivable, inventories, fixed assets, intangible assets and equity investments, as of December 31, 2005 and December 31, 2006 and related notes to these statements. The financial statements shall be prepared to report the ST Business as it has been reported in ST's consolidated financial statements applying GAAP and following the presentation basis adopted by ST in its consolidated financial statements, consistently applied (collectively, "ST Business Audited Financial Statements").

(i) Contemplated Financing; Contributor Financing. The Contemplated Financing shall have been provided to Holdings or one or more of its Subsidiaries; *provided* that the Contemplated Financing and the Contributor Financing do not, in the aggregate, result in Holdings and its Subsidiaries having more than \$875,000,000 of aggregate Indebtedness outstanding as of the Closing.

(j) Dutch Auditor's Certificates. Each Party (and its Affiliates), as applicable, shall have obtained such auditor's certificate(s) pursuant to article 2:204b or 2:204c (as applicable) of the Dutch Civil Code as are required to give effect to the transactions contemplated in this Agreement and the other Transaction Documents.

(k) Minimum Cash. On the Closing Date, following payment by Holdings and its Subsidiaries of any fees and expenses incurred by Holdings or any of its Subsidiaries in connection with the Closing of the Transactions contemplated hereby and the Contemplated Financing, but in any event not including (i) the costs set forth in Section 4.16(g), (ii) the costs incurred as reimbursement obligations by Holdings or its Subsidiaries pursuant to the Infrastructure Procurement Agreement, (iii) any fees and expenses to be paid to the FP Parties in excess of \$7,000,000, and (iv) any fees and expenses to be paid to the Contemplated Financing Lenders in excess of \$5,800,000, but only to the extent such excess is equal to or less than \$7,500,000, Holdings and its Subsidiaries, in the aggregate, shall have on hand at least \$585,000,000 in Cash and Cash Equivalents.

5.2 Conditions to Obligations of ST. The obligations of ST to consummate the Closing are subject to the satisfaction or waiver of each of the following conditions:

(a) Performance by Intel. (i) Intel shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing Date, (ii) the representations and warranties of Intel contained in Section 3.1 shall be true and correct at and as of the Closing as if made at and as of the Closing Date (rather than at and as of the Signing Date); *provided, however*, that those representations and warranties set forth in Sections 3.1 — 3.24 of the Intel Asset Transfer Agreement (incorporated herein by reference) and which within such sections address matters only as of a certain date specific shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or Intel Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an Intel Material Adverse Effect, and (iii) Holdings shall have received a certificate signed by a duly authorized executive officer of Intel to the foregoing effect.

(b) Performance by the FP Parties. (i) Each of the FP Parties shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing Date, (ii) the representations and warranties of the FP Parties contained in Section 3.3 shall be true and correct at and as of the Closing as if made at and as of such date (other than those representations and warranties which address matters only as of a certain date which shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or FP Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an FP Material Adverse Effect, and (iii) Holdings shall

have received a certificate signed by a duly authorized executive officer of each of the FP Parties to the foregoing effect.

(c) No Violation. No Governmental Authority shall have enacted, issued, promulgated or entered any Applicable Law which is in effect on the Closing Date which has or would have the effect of prohibiting, restraining or enjoining the consummation of the transactions contemplated by this Agreement. No temporary restraining order, preliminary or permanent injunction, cease and desist order or other order issued by any court or other Governmental Authority that has the effect of making the transactions contemplated hereby illegal or otherwise prohibiting consummation of the transfers contemplated hereby or the consummation of the Closing, or imposing upon ST material fines or penalties in respect thereof, shall be in effect as of the Closing Date, and there shall be no pending or threatened actions or proceedings by any Governmental Authority (or determinations by any Governmental Authority) challenging or in any manner seeking to prohibit the transfer contemplated hereby or the consummation of the Closing.

(d) Transaction Documents. Each of Intel, the FP Parties (and each of their respective Affiliates), Holdings and Numonyx (and each of their Subsidiaries) shall have executed and delivered to ST each Transaction Document to which each of them, respectively, is a party.

(e) Governmental Approvals. The waiting period (and any extension thereof) applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated, and any waiting period (and any extension thereof) under any other applicable similar merger notification laws or regulations of foreign Governmental Authorities shall have expired or been terminated. Any Governmental Approvals required under any such laws or regulations in connection with the consummation of the transactions contemplated hereby shall have been obtained.

(f) Consents. Intel shall have received the Consents identified on Schedule 5.2(f) of the ST Master Agreement Disclosure Letter on terms and conditions that satisfy the requirements set forth in Schedule 5.2(f) of the ST Master Agreement Disclosure Letter.

(g) No Intel Material Adverse Effect. There shall not have occurred since the Signing Date any Intel Material Adverse Effect that is continuing, and Holdings shall have received a certificate signed by a duly authorized executive officer of Intel to the foregoing effect.

(h) Audited Financial Statements. Intel shall have delivered to ST audited statements of revenues and direct expenses for the Intel Business for the years ended December 31, 2005 and December 30, 2006, and the following balance sheet captions: accounts receivable, inventories, fixed assets and, if applicable, other assets as of December 31, 2005 and December 30, 2006, and related notes to these statements. The financial statements shall be prepared to report the Intel Business as it has been reported in Intel's consolidated financial statements applying GAAP and following the

presentation basis adopted by Intel in its consolidated financial statements, consistently applied (collectively, “Intel Business Audited Financial Statements”).

(i) Contemplated Financing; Contributor Financing. The Contemplated Financing shall have been provided to Holdings or one or more of its Subsidiaries; *provided* that the Contemplated Financing and the Contributor Financing do not, in the aggregate, result in Holdings and its Subsidiaries having more than \$875,000,000 of aggregate Indebtedness outstanding as of the Closing.

(j) Dutch Auditor’s Certificates. Each Party (and its Affiliates), as applicable, shall have obtained such auditor’s certificate(s) pursuant to article 2:204b or 2:204c (as applicable) of the Dutch Civil Code as are required to give effect to the transactions contemplated in this Agreement and the other Transaction Documents.

(k) Minimum Cash. On the Closing Date, following payment by Holdings and its Subsidiaries of any fees and expenses incurred by Holdings or any of its Subsidiaries in connection with the Closing of the Transactions contemplated hereby, but in any event not including (i) the costs set forth in Section 4.16(g), (ii) the costs incurred as reimbursement obligations by Holdings or its Subsidiaries pursuant to the Infrastructure Procurement Agreement, (iii) any fees and expenses to be paid to the FP Parties in excess of \$7,000,000, and (iv) any fees and expenses to be paid to the Contemplated Financing Lenders in excess of \$5,800,000, but only to the extent such excess is equal to or less than \$7,500,000, Holdings and its Subsidiaries, in the aggregate, shall have on hand at least \$585,000,000 in Cash and Cash Equivalents.

5.3 Conditions to Obligations of the FP Parties. The obligations of the FP Parties to consummate the Closing are subject to the satisfaction or waiver of each of the following conditions:

(a) Performance by Intel. (i) Intel shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing Date, (ii) the representations and warranties of Intel contained in Section 3.1 shall be true and correct at and as of the Closing as if made at and as of the Closing Date (rather than at and as of the Signing Date); *provided, however*, that those representations and warranties set forth in Sections 3.1 — 3.24 of the Intel Asset Transfer Agreement (incorporated herein by reference) and which within such sections address matters only as of a certain date specific shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or Intel Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an Intel Material Adverse Effect, and (iii) Holdings shall have received a certificate signed by a duly authorized executive officer of Intel to the foregoing effect.

(b) Performance by ST. (i) ST shall have performed and satisfied in all material respects its obligations and covenants hereunder to the extent such obligations and covenants are required to be performed and satisfied by it on or prior to the Closing

Date, (ii) the representations and warranties of ST contained in Section 3.2 shall be true and correct at and as of the Closing as if made at and as of the Closing Date (rather than at and as of the Signing Date); *provided, however*, that those representations and warranties set forth in Sections 3.1 — 3.24 of the ST Asset Contribution Agreement (incorporated herein by reference) and which within such sections address matters only as of a certain date specific shall be true and correct as of such certain date), except, in any case, for failures of such representations and warranties (disregarding any materiality or ST Material Adverse Effect qualifications contained in any such representation or warranty) to be true and correct that have not had and would not reasonably be expected to have an ST Material Adverse Effect, and (iii) Holdings shall have received a certificate signed by a duly authorized executive officer of ST to the foregoing effect.

(c) No Violation. No Governmental Authority shall have enacted, issued, promulgated or entered any Applicable Law which is in effect on the Closing Date which has or would have the effect of prohibiting, restraining or enjoining the consummation of the transactions contemplated by this Agreement. No temporary restraining order, preliminary or permanent injunction, cease and desist order or other order issued by any court or other Governmental Authority that has the effect of making the transactions contemplated hereby illegal or otherwise prohibiting consummation of the transfers contemplated hereby or the consummation of the Closing, or imposing upon the FP Parties material fines or penalties in respect thereof, shall be in effect as of the Closing Date, and there shall be no pending or threatened actions or proceedings by any Governmental Authority (or determinations by any Governmental Authority) challenging or in any manner seeking to prohibit the transfer contemplated hereby or the consummation of the Closing.

(d) Transaction Documents. Each of Intel, ST, Holdings and Numonyx (and each of their respective Affiliates) shall have executed and delivered to the FP Parties each Transaction Document to which each of them, respectively, is a party.

(e) Governmental Approvals. The waiting period (and any extension thereof) applicable to the consummation of the transactions contemplated hereby under the HSR Act shall have expired or been terminated, and any waiting period (and any extension thereof) under any other applicable similar merger notification laws or regulations of foreign Governmental Authorities shall have expired or been terminated. Any Governmental Approvals required under any such laws or regulations in connection with the consummation of the transactions contemplated hereby shall have been obtained.

(f) No Intel Material Adverse Effect. There shall not have occurred since the Signing Date any Intel Material Adverse Effect that is continuing, and Holdings shall have received a certificate signed by a duly authorized executive officer of Intel to the foregoing effect.

(g) No ST Material Adverse Effect. There shall not have occurred since the Signing Date any ST Material Adverse Effect that is continuing, and Holdings shall have received a certificate signed by a duly authorized executive officer of ST to the foregoing effect.

(h) Audited Financial Statements. Intel shall have delivered to FP Co. the Intel Business Audited Financial Statements and ST shall have delivered to FP Co. the ST Business Audited Financial Statements.

(i) Contemplated Financing; Contributor Financing. The Contemplated Financing shall have been provided to Holdings or one or more of its Subsidiaries; *provided that* the Contemplated Financing and the Contributor Financing do not, in the aggregate, result in Holdings and its Subsidiaries having more than \$875,000,000 of aggregate Indebtedness outstanding as of the Closing.

(j) Dutch Auditor's Certificates. Each Party (and its Affiliates), as applicable, shall have obtained such auditor's certificate(s) pursuant to article 2:204b or 2:204c (as applicable) of the Dutch Civil Code as are required to give effect to the transactions contemplated in this Agreement and the other Transaction Documents.

(k) Minimum Cash. On the Closing Date, following payment by Holdings and its Subsidiaries of any fees and expenses incurred by Holdings or any of its Subsidiaries in connection with the Closing of the Transactions contemplated hereby, but in any event not including (i) the costs set forth in Section 4.16(g), (ii) the costs incurred as reimbursement obligations by Holdings or its Subsidiaries pursuant to the Infrastructure Procurement Agreement, (iii) any fees and expenses to be paid to the FP Parties in excess of \$7,000,000, and (iv) any fees and expenses to be paid to the Contemplated Financing Lenders in excess of \$5,800,000, but only to the extent such excess is equal to or less than \$7,500,000, Holdings and its Subsidiaries, in the aggregate, shall have on hand at least \$585,000,000 in Cash and Cash Equivalents.

## ARTICLE VI TERMINATION

6.1 Grounds for Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written agreement of the Parties;

(b) by written notice from any Party to the other Parties if:

(i) the Closing has not been effected on or prior to the close of business on the Termination Date; *provided, however*, that the right to terminate this Agreement pursuant to this Section 6.1(b)(i) shall not be available to any Party whose failure to fulfill any of its obligations contained in this Agreement has been the cause of, or resulted in, the failure of the Closing to have occurred on or prior to the aforesaid date;

(ii) any Applicable Law shall be enacted or become applicable that makes the transactions contemplated hereby or the consummation of any of the Closing illegal or otherwise prohibited;

(iii) any judgment, injunction, order or decree enjoining any Party hereto from consummating the transactions contemplated hereby or the Closing is entered, and such judgment, injunction, order or decree shall become final and nonappealable;

(iv) any other Party is in material breach or material default of any covenant contained herein or there are any inaccuracies or misrepresentations in another Party's representations or warranties herein (disregarding any materiality or "Material Adverse Effect" qualifications contained in any such representation or warranty) which have had, or if not cured prior to the Closing Date would have, in the case of Intel, an Intel Material Adverse Effect, in the case of ST, an ST Material Adverse Effect, or in the case of the FP Parties, an FP Material Adverse Effect, as the case may be, and such breach or default, shall not be cured or waived within 20 Business Days after written notice is delivered by any of the non-breaching Parties specifying, in reasonable detail, such claimed material breach or default and demanding its cure or satisfaction; *provided* that if it is not reasonably practicable to cure such breach or default within 20 Business Days but such breaching Party is using its commercially reasonable efforts to promptly cure, then such Party shall have an additional 10 Business Days to cure the breach;

#### 6.2 Effect of Termination.

(a) If this Agreement is terminated pursuant to Section 6.1(a), (b), or (c), all obligations of the Parties hereunder (except for this Section 6.2, Section 4.7 (Non-Solicitation of Employees) and Article VII (Miscellaneous)) shall terminate without Liability of any Party to any other Party and the representations and warranties made herein shall not survive beyond a termination of this Agreement. Nothing contained in this Section 6.2 shall relieve any Party of Liability for any breach of any representation, warranty or covenant contained in this Agreement that occurred prior to the date of termination of this Agreement.

(b) Intentionally Omitted.

(c) If any termination of this Agreement prior to Closing is attributable to a willful breach (i) by Intel of any representation or warranty of Intel contained in this Agreement, in no event shall the Liability of Intel for such breach to ST exceed \$75,000,000 or of Intel to the FP Parties, collectively, exceed \$7,500,000 plus any additional expenses incurred by FP and its Affiliates on behalf of Holdings as agreed by Intel, ST and Holdings after the Signing Date for services described on Schedule 7.3 to each of the Master Agreement Disclosure Letters, or (ii) by ST of any representation or warranty of ST contained in this Agreement, in no event shall the Liability of ST for such breach to Intel exceed \$75,000,000 or of ST to the FP Parties, collectively, exceed \$7,500,000 plus any additional expenses incurred by FP and its Affiliates on behalf of Holdings as agreed by Intel, ST and Holdings after the Signing Date for services described on Schedule 7.3 to each of the Master Agreement Disclosure Letters.

(d) Each of the Parties acknowledges that the agreements contained in this Section 6.2 are an integral part of the transactions contemplated by this Agreement and the other Transaction Documents.

6.3 Termination of Representations and Warranties and Covenants Upon the Closing. Except as otherwise provided pursuant to the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement including Section 5.18 (Master Agreement Covenants) thereof, the representations and warranties of the Parties contained in Article III of this Agreement, and the covenants contained in Section 4.9 and Section 4.10 of this Agreement, shall terminate and be of no further force or effect immediately upon the consummation of the Closing; *provided, however* that the representations and warranties set forth in Sections 3.1(a), 3.2(a), and 3.3(a) (Existence and Good Standing), Sections 3.1(b), 3.2(b) and 3.3(b), (Authorization; Enforceability) and Sections 3.1(g), 3.2(g), and 3.3(f) (Reliance) shall survive until the expiration of the applicable statute of limitations; *provided further* that the covenant set forth in Section 4.5 shall survive for a period of 12 months after the Closing Date.

6.4 Exclusive Remedy. The Parties hereby acknowledge and agree that following the Closing, no Person other than Holdings and Numonyx shall have any rights with respect to any breach of any of the representations or warranties contained in Article III hereof or the covenants specified in Section 5.18 (Master Agreement Covenants) of each of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement. Holdings' and Numonyx's sole remedy for any such breach (a) by Intel, shall be pursuant to Article VI of the Intel Asset Transfer Agreement and (b) by ST, shall be pursuant to Article VI of the ST Asset Contribution Agreement.

## ARTICLE VII MISCELLANEOUS

7.1 Notices. All notices and other communications pursuant to this Agreement shall be in writing and shall be deemed given if delivered personally, telecopied, sent by nationally-recognized overnight courier or mailed by U.S. registered or certified mail (return receipt requested), postage prepaid, to the Parties at the addresses set forth below or to such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice or communication shall be deemed to have been delivered and received (a) in the case of personal delivery, on the date of such delivery, (b) in the case of telecopier delivery, on the date sent if confirmation of receipt is received and such notice is also promptly mailed by registered or certified mail (return receipt requested), (c) in the case of a nationally-recognized overnight courier in circumstances under which such courier guarantees next Business Day delivery, on the next Business Day after the date when sent and (d) in the case of mailing, on the fifth Business Day following that on which the piece of mail containing such communication is posted to the address provided herein or to such other address as the Person to whom notice is given may have previously furnished to the others in writing in the manner set forth above. Any Party hereto may give any notice, request, demand, claim or other communication hereunder using any other means (including ordinary mail or electronic mail), but no such notice, request, demand, claim or other communication shall be deemed to have been duly given unless and until it actually is received by the individual for whom it is intended. Notices to Parties pursuant to this Agreement shall be given:



(a) to Intel:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: Treasurer  
Telephone: (408) 765-8080  
Facsimile: (408) 765-6038

with a copy to:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: General Counsel  
Telephone: (408) 765-8080  
Facsimile: (408) 653-8050

and a copy to:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: Portfolio Manager  
M/S: RN6-59  
Facsimile: (408) 653-8050  
Email: portfolio.manager@intel.com

and a copy to (which shall not constitute notice to Intel):

Gibson, Dunn & Crutcher LLP  
1881 Page Mill Rd.  
Palo Alto, CA 94304  
Attention: Russell C. Hansen  
Telephone: (650) 849-5300  
Facsimile: (650) 849-5333

(b) to ST:

STMicroelectronics N.V.  
Chemin du Champ-des-Filles, 39  
1228 Plan-les-Ouates  
Geneva, Switzerland  
Attention: Pierre Ollivier, Group Vice President and General Counsel  
Telephone: 41 22 929 58 76  
Facsimile: 41 22 929 59 06

with a copy to (which shall not constitute notice to ST):

STMicroelectronics N.V.  
1310 Electronics Drive  
Mail Station 2346  
Carrollton, TX 75006  
Attention: Steven K. Rose, Vice President, Secretary and General Counsel  
Telephone: (972) 466-6412  
Facsimile: (972) 466-7044

and a copy to (which shall not constitute notice to ST):

Shearman & Sterling LLP  
525 Market Street  
San Francisco, CA 94105  
Attention: John D. Wilson  
Telephone: (415) 616-1100  
Facsimile: (415) 616-1199

(c) to one or more of the FP Parties:

Francisco Partners  
One Letterman Drive  
Building C – Suite 410  
San Francisco, CA 94129  
Attention: Dipanjan Deb  
Telephone: (415) 418-2900  
Facsimile: (415) 418-2999

with a copy to:

Francisco Partners  
100 Pall Mall  
4th Floor  
London SW1 YSNG  
United Kingdom  
Attention: Phokion Potamianos  
Telephone: 44 0 207 907 8600  
Facsimile: 44 0 207 907 8650

and a copy to (which shall not constitute notice to the FP Parties):

Davis Polk & Wardwell  
1600 El Camino Real  
Menlo Park, CA 94025

Attention: William M. Kelly  
Martin A. Wellington  
Telephone: (650) 752-2000  
Facsimile: (650) 752-2112

7.2 Amendments; Waivers.

(a) Any provision of this Agreement or any other Transaction Document may be amended or waived if, and only if, such amendment or waiver is in writing and signed in the case of an amendment, by all Parties, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(b) No waiver by a Party of any default, misrepresentation or breach of a warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of a warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence. No failure or delay by a Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided under Applicable Law.

7.3 Expenses. Except as set forth in (a) Section 5.8(c) of the Intel Asset Transfer Agreement, (b) Section 5.8(c) of the ST Asset Contribution Agreement and (c) Schedule 7.3 of each of the Intel Master Agreement Disclosure Letter and the ST Master Agreement Disclosure Letter, all costs and expenses incurred in connection with this Agreement and the other Transaction Documents and in closing and carrying out the transactions contemplated hereby and thereby shall be paid by the Party incurring such cost or expense.

7.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs, personal representatives and permitted assigns. No Party hereto may transfer or assign either this Agreement or any of its rights, interests or obligations hereunder, whether directly or indirectly, by operation of law, merger or otherwise, without the prior written approval of each other Party; *provided, however*, that each of the FP Parties may transfer or assign its rights and obligations under this Agreement, in whole or from time to time in part, to one or more of its Affiliates at any time prior to the Closing; *provided, further*, that in the event of any such assignment, any of the terms "FP Co.," "FP Holdco," "FP LLC," or "FP Parallel" in any Transaction Document, shall apply to any such assignee, mutatis mutandis. No such transfer or assignment shall relieve the transferring or assigning Party of its obligations hereunder if such transferee or assignee does not perform such obligations.

7.5 Governing Law. This Agreement shall be construed in accordance with and this Agreement and any disputes or controversies related hereto shall be governed by the internal laws of the State of New York without giving effect to any conflicts of laws principles thereof that would apply the laws of any other jurisdiction.

7.6 Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts and the signatures delivered by telecopy, each of which shall be an original, with the same effect as if the signatures were upon the same instrument and delivered in person. This Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Parties.

7.7 Entire Agreement. This Agreement (including the schedules and exhibits referred to herein, which are hereby incorporated by reference), the other Transaction Documents and the Confidentiality Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, express or implied, between and among the Parties with respect to the subject matter of this Agreement. Neither this Agreement nor any provision hereof is intended to confer upon any Person other than the Parties any rights or remedies hereunder. No representation, warranty, promise, inducement or statement of intention has been made by either Party that is not embodied in this Agreement or such other documents, and neither party shall be bound by, or be liable for, any alleged representation, warranty, promise, inducement or statement of intention not embodied herein or therein.

7.8 Captions. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

7.9 Severability. If any provision of this Agreement, or the application thereof to any Person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other Persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth at the later of the date this Agreement was executed or last amended.

7.10 Dispute Resolution.

(a) With the exception of disputes involving Intellectual Property ownership and infringement issues, any dispute arising under this Agreement shall be finally resolved by arbitration. The Parties waive their right to any form of appeal to a court on any questions of law arising out of the arbitration award. Any dispute or claim between the Parties which is beyond the scope of this Section shall be submitted to the exclusive jurisdiction of the courts of the State of New York and the Federal courts of the United States of America located in the State of New York. The Parties hereby consent to and grant any such court jurisdiction over such Parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 7.1 or in such other manner as may be permitted by Applicable Law, shall be valid and sufficient service thereof.

(b) Mediation. Prior to arbitration, however, the Party making the original claim shall provide the other Party with a written description of the dispute or claim and one or more of the senior executives of each Party shall meet in an attempt to resolve such dispute or claim. If the disagreements cannot be resolved by the senior management after 90 days from the date any Party made a written demand for resolution, a binding arbitration shall be held.

(c) Arbitration Rules. The rules of the arbitration shall be agreed upon by the Parties prior to the arbitration and shall be based upon the nature of the disagreement. To the extent that the Parties cannot agree on the rules of the arbitration after 30 days from the date any Party makes a written demand for resolution, then, subject to Section 7.10(d), the Rules of Arbitration of the ICC in effect as of the Closing Date shall apply.

(d) Mandatory Rules. As a minimum set of rules in the arbitration the Parties agree as follows:

(i) The arbitration shall be held by one arbitrator appointed by mutual agreement of the Parties. If the Parties cannot agree on a single arbitrator within 15 days from the date written demand for arbitration has been received by the other Party, each Party shall identify one independent individual. The individuals appointed by the Parties shall then meet to appoint a single arbitrator. If an arbitrator still cannot be agreed upon within an additional 15 day period, he or she shall be appointed by the ICC.

(ii) The place of arbitration shall be New York, New York. Hearings and meetings shall be held in New York or at such other place as the Parties may agree.

(iii) The English language shall be used in the proceedings. Documents and written testimonies may be submitted in any language *provided* that the Party submitting such documents and testimonies shall provide, at its own expense, a translation of the same in the English language.

(iv) The arbitrator shall specify the basis for the award, the basis for the damages award and a breakdown of the damages awarded, and the basis of any other remedy authorized under this section. The award shall be considered as a final and binding resolution of the dispute or claim.

(v) The Parties agree to maintain the confidentiality of the arbitral proceedings, the existence of the same and the status of the hearings. In addition, the Parties undertake to maintain the confidentiality of any document exchanged in, produced in, or created by the Parties for the arbitration proceedings as well as the confidentiality of the award. Notwithstanding the foregoing, if the disclosure of the arbitral proceedings, or of any of the documents exchanged in, produced in or created for the arbitration proceedings or if the disclosure of the award is required by Applicable Law or is compelled by a court or other Governmental Authority:

(A) the Parties shall use the legitimate and legal means available to

minimize the scope of their disclosure to third parties; and (B) the Party compelled to make the disclosure shall inform the other Party and the arbitrator at least 20 Business Days in advance of the disclosure (or if 20 Business Days' notice is not practicable because the Party is required to make the disclosure less than 20 Business Days after becoming aware of the event or occurrence giving rise to such disclosure requirement, then notice to the other Party and the arbitrator shall be provided as soon as practicable after such event or occurrence).

(vi) The duty of the Parties to arbitrate any dispute or claim within the scope of this Section shall survive the expiration or termination of this Agreement for any reason. The Parties specifically agree that any action must be brought, if at all, within two years from discovery of the cause of action.

(vii) The discretion of the arbitrator to fashion remedies shall be no broader than the legal and equitable remedies available to a court (unless the parties expressly agree otherwise prior to the start of arbitration). In no event, however, shall the arbitrator award a remedy which enjoins a Party or its customers to stop manufacturing, using, marketing, selling, offering for sale, or importing such Party's products. In addition, notwithstanding anything herein to the contrary, in no event, shall the arbitrator award a remedy which enjoins a Party to license to the other Party any of its intellectual property rights of whatever nature. The arbitrator will have no authority to award damages in excess of compensatory damages and each Party expressly waives and foregoes any right to punitive, exemplary or similar damages, except as such damages may be required by statute. In no event shall the amount of damages awarded to the prevailing Party exceed or otherwise be inconsistent with any of the applicable limitations on damages set forth in this Agreement, including Sections 6.2 and 6.4.

(viii) The arbitrator may not order any conservatory or interim relief measures of any kind. In any event, however, either Party may apply for conservatory or interim relief measures to the courts of the State of New York or the Federal courts of the United States of America located in the State of New York which shall have exclusive jurisdiction to grant such injunctive relief.

(ix) The Parties shall agree upon what, if any, disclosure to the other parties to the arbitration shall be permitted. If the Parties can not agree on the form of disclosure within 30 days after the appointment of the arbitrator, then the Parties agree that in addition to the Rules of Arbitration of the ICC, the arbitrators shall apply the IBA Rules of Evidence. In case of conflict between Rules of Arbitration of the ICC and the IBA Rules of Evidence, the Rules of Arbitration of the ICC shall prevail. Notwithstanding anything herein to the contrary, in no event shall anything verbally or in writing used strictly for settlement purposes between the Parties be permitted by the arbitration to be used as evidence for either Party's case.

(x) The Parties shall equally bear the costs of the arbitration. Each Party shall bear the fees and expenses of its appointed experts and shall bear its own legal expenses. For the purpose of this clause, the term “costs of arbitration” includes only: (A) the fees and expenses of the arbitrator; (B) in the case of an arbitration governed by the ICC Rules, the ICC administrative expenses fixed by the Court of Arbitration of the ICC; and (C) the fees and expenses of any experts appointed by the arbitrator.

7.11 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (d) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.11.

7.12 Third Party Beneficiaries. Effective on the Closing Date, Holdings and Numonyx shall be deemed third party beneficiaries of the covenants set forth in the Sections referenced in Section 5.18 (Master Agreement Covenants) of each of the Intel Asset Transfer Agreement and ST Asset Contribution Agreement. No provision of this Agreement shall create any third party beneficiary rights in any other Person, including any employee or former employee of Intel or ST or any of their respective Affiliates (including any beneficiary or dependent thereof).

7.13 Specific Performance. The Parties hereby acknowledge and agree that the failure of any Party to perform its agreements and covenants hereunder, including its failure to take all actions as are necessary on its part to the consummation of the transactions contemplated herein, may cause irreparable injury to the other Parties, for which damages, even if available, may not be an adequate remedy. Accordingly, each Party hereby consents to the issuance of injunctive relief by any court of competent jurisdiction to compel performance of such Party’s obligations and to the granting by any court of the remedy of specific performance of its obligations hereunder.

7.14 No Presumption Against Drafting Party. Intel, ST and the FP Parties acknowledge that each of the Parties hereto has been represented by counsel in connection with the negotiation and execution of this Agreement and the other Transaction Documents. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived.

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

**INTEL CORPORATION**

By: /s/ Cary I. Klafter

Name: Cary I. Klafter

Title: Vice President

**STMICROELECTRONICS N.V.**

By: /s/ Carlo Bozotti

Name: Carlo Bozotti

Title: President and Chief Executive Officer

**REDWOOD BLOCKER S.A.R.L.**

By: /s/ Keith Toh

Name: Keith Toh

Title: Manager

*[Signature page to Master Agreement]*

---



**FRANCISCO PARTNERS II (CAYMAN) L.P.**

By: FRANCISCO PARTNERS GP II (CAYMAN) L.P., its  
General Partner

By: FRANCISCO PARTNERS GP II MANAGEMENT  
(CAYMAN) Limited, its General Partner

By: /s/ Dipanjan Deb

Name: Dipanjan Deb

Title: Director

**PK FLASH, LLC**

By: FRANCISCO PARTNERS PARALLEL FUND II, L.P., its  
Member

By: FRANCISCO PARTNERS GP II, L.P., its General Partner

By: FRANCISCO PARTNERS GP II MANAGEMENT, LLC, its  
General Partner

By: /s/ Dipanjan Deb

Name: Dipanjan Deb

Title: Director

**FRANCISCO PARTNERS  
PARALLEL FUND II, L.P.**

By: FRANCISCO PARTNERS GP II, L.P., its General Partner

By: FRANCISCO PARTNERS GP II MANAGEMENT, LLC, its  
General Partner

By: /s/ Dipanjan Deb

Name: Dipanjan Deb

Title: Director

*[Signature page to Master Agreement]*

---

**APPENDIX A**  
**TO MASTER AGREEMENT**

“Affiliate”, with respect to any Person, means any other Person directly or indirectly controlling, controlled by or under common control with, such Person; *provided, however*, that with respect to Intel and ST, “Affiliates” shall be deemed to only include their respective Subsidiaries; *provided further*, that with respect to Holdings and any of its Subsidiaries, “Affiliates” shall be deemed to expressly exclude Intel, ST, the FP Parties and each of their Affiliates. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling”, “controlled by” or “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Agreement” has the meaning set forth in the introduction to this Agreement.

“Applicable Law” means, with respect to any Person, any federal, state, local or foreign statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any Governmental Authority applicable to such Person or any of its Affiliates or any of their respective properties, assets, officers, directors, employees, consultants or agents.

“Articles of Association” means the Articles of Association of Holdings, dated as of March 30, 2008, as amended from time to time.

“Bank Guarantee” shall have the meaning set forth in Section 5.11(g) of the ST Asset Contribution Agreement.

“Business” means the Intel Business or the ST Business, as applicable.

“Business Day” means each day other than a Saturday, Sunday or other day on which commercial banks in New York, New York or Geneva, Switzerland are authorized or required by law to close.

“Cash and Cash Equivalents” means all cash on hand and cash equivalents of a Person (whether or not related to the applicable Business), including currency and coins, negotiable checks, bank accounts, marketable securities, commercial paper, certificates of deposit, treasury bills, surety bonds and money market funds.

“Claims” means all rights to causes of action, claims, demands, rights and privileges against third parties, whether liquidated or unliquidated, fixed or contingent, choate or inchoate.

“Closing” shall have the meaning set forth in Section 2.5 of this Agreement.

“Closing Date” means the date of the Closing, as further described in Section 2.5 of this Agreement.

---

“Competition Law” means the Sherman Antitrust Act of 1890, the Clayton Act of 1914, the HSR Act, the Federal Trade Commission Act, and all other domestic or foreign Applicable Laws passed by a domestic or foreign Governmental Authority 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.

“Confidentiality Agreements” means (i) the Corporate Non-Disclosure Agreement No. 1367780 between Intel and ST, dated March 13, 2006, as amended by a side letter dated March 9, 2006 and executed by the parties on or about March 13, 2006; (ii) the Corporate Non-Disclosure Agreement between Intel Corporation and Francisco Partners II, L.P. (“Francisco”) dated September 13, 2006, as amended by a side letter dated September 13, 2006; (iii) the Confidential Disclosure Agreement between ST and Francisco, dated September 14, 2006; (iv) the Multiparty Confidential Information Exchange Agreement by and among Intel, ST and Francisco, dated September 14, 2006; (v) the Corporate Non-Disclosure Agreement between Intel and Holdings, dated as of the Closing Date; (vi) the Confidential Disclosure Agreement between ST and Holdings, dated as of the Closing Date; and (vii) the Corporate Non-Disclosure Agreement between Francisco and Holdings, dated as of the Closing Date, and the Mutual Confidentiality Agreement by and among Intel, ST, the FP Parties, Holdings and Numonyx, dated as of the Closing Date.

“Confidential Information” means any (i) information in tangible form that bears a “confidential,” “proprietary,” “secret” or similar legend, including the Intel Transferred Trade Secrets set forth on Schedule 2.1(h) of the Intel ATA Disclosure Letter, the Intel Retained Trade Secrets, the ST Transferred Trade Secrets set forth on Schedule 2.1(h) to the ST ACA Disclosure Letter, the ST Retained Trade Secrets, any books and records of any Party, and any other confidential information disclosed by any Party to any other Party(ies) in connection with the negotiation, evaluation and implementation of the Transaction Documents, including any information disclosed on the ST ACA Disclosure Letter or the Intel ATA Disclosure Letter and any information provided pursuant to Section 4.1 of this Agreement; (ii) information that a Party observes or perceives by inspection of tangible objects (including without limitation documents, prototypes, or samples) or otherwise while present at another Party’s facilities or any other location at which tangible objects embodying another Party’s Confidential Information is accessible; and (iii) any information to which a Party receives access as a result of the relationship of the Parties or such Party’s performance under a Transaction Document. Each Party will make a reasonable good faith effort to identify as “confidential” or the like the information in tangible form that it wishes to be treated as Confidential Information pursuant to this Agreement, but a Party’s failure to so mark any such information shall not relieve a Receiving Party of its obligations under this Agreement. Notwithstanding the foregoing, “Confidential Information” does not include: (x) any information that is or has become generally available to the public other than as a result of a disclosure by the Receiving Party or any Affiliate thereof in breach of any of the provisions of the Confidentiality Agreements or any other similar contract to which the Receiving Party or any Affiliate thereof is bound; (y) any information that has been independently developed by the Receiving Party (or any Affiliate thereof) without violating any of the provisions of the Confidentiality Agreements or any other similar contract to which the Receiving Party or any Affiliate thereof is bound; or (z) any information made available to the Receiving Party (or any Affiliate thereof) on a non-

confidential basis by any third party who is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation.

“Consolidation” means either the FP Consolidation or a transaction undertaken by an Intel Affiliate or ST Affiliate pursuant to the last sentence of Section 6.9 of the Securityholders’ Agreement.

“Contemplated Financing” means the debt financing provided to Numonyx pursuant to that certain US \$550,000,000 Facilities Agreement dated March 25, 2008 and made between Numonyx, Intesa, Unicredit, the Original Lenders (as defined therein) and the Agent (as defined therein).

“Contemplated Financing Lenders” means Intesa and Unicredit.

“Contract” means each contract, agreement, option, lease, license, cross-license, sale and purchase order, commitment and other instrument of any kind, whether written or oral.

“Contribution Agreement” means that certain Reimbursement, Guaranty, Contribution and Intercreditor Agreement dated as of March 25, 2008 among Numonyx, Holdings and the Guarantors.

“Contributor Financing” means the debt financing pursuant to the Note Agreement.

“Control” has the meaning such that a Person (or group of related Persons) exercises Control over a Party when such Person or group owns or controls (either directly or indirectly) any of the following: (a) if the Party issues voting stock or other voting securities, more than 50% of the outstanding stock or securities entitled to vote for the election of directors or similar managing authority; or (b) if such Party does not issue voting stock or other voting securities, more than 50% of the ownership interest that represents the right to make decisions for such Party; or (c) any other ability to elect more than half of the board of directors or similar managing authority of the subject Party, whether by contract or otherwise.

“Copyrights” means copyrights and mask work rights (whether or not registered) and registrations and applications therefor, worldwide.

“Customer Data” means the data related to customers of a Party’s Business which is included in such Party’s Transferred Assets.

“Determination Date” shall have the meaning set forth in Section 4.12(a) of this Agreement.

“Disclosure Letters” means the Intel ATA Disclosure Letter, the ST ACA Disclosure Letter, the Intel Master Agreement Disclosure Letter and the ST Master Agreement Disclosure Letter.

“Effective Time” means, unless otherwise agreed by the Parties, 12:01 a.m. GMT on the Closing Date.

“Embedded PCM Product” means an Integrated Circuit that is comprised of a PCM Product and a microcontroller, processor or other non-memory device.

“Environmental Consultants” means one or more third-party environmental consultants with expertise in the relevant jurisdictions.

“Environmental Laws” means any Applicable Laws of any Governmental Authority in effect as of the Closing Date, unless otherwise noted, relating to pollution, protection or remediation of the environment, the use, storage, treatment, generation, manufacture, distribution, transportation, processing, handling, Release, disposal of or exposure to Hazardous Substances or, as such relate to Hazardous Substances, public and occupational health and safety.

“Environmental Liability” means any Liability or Loss, including the cost of any Remedial Action, arising in connection with (i) the use, generation, storage, treatment, manufacture, distribution, transportation, processing, handling, disposal or Release of any Hazardous Substances, (ii) the violation of or liability under any Environmental Laws or any Governmental Approval relating to any Hazardous Substances or (iii) any third party claim, litigation or proceeding relating to any Hazardous Substance or Environmental Laws.

“Equity Plan” means the Numonyx Holdings B.V. Equity Incentive Plan, an equity compensation plan for Holdings, with terms reasonably satisfactory to Holdings, Intel, ST, and the FP Parents.

“Exchange Act” means the United States Securities Exchange Act of 1934.

“Facilities Agreement” means the Term and Revolving Facilities Agreement dated as of March 25, 2008, among Numonyx, the several lenders and issuing bank from time to time party thereto and Intesa Sanpaolo S.p.A., as agent, which provides for unsecured credit facilities, consisting of a term loan and revolving credit facility in an aggregate principal amount of \$550,000,000.

“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.

“FP Co.” has the meaning set forth in the introduction to this Agreement.

“FP Consolidation” shall have the meaning set forth in Section 6.9 of the Securityholders’ Agreement.

“FP Costs” shall have the meaning set forth in Section 6.2(b) of this Agreement.

“FP Holdco” has the meaning set forth in the introduction to this Agreement.

“FP Holdings Shares” shall have the meaning set forth in Section 2.1 of the FP Purchase Agreement.

“FP LLC” has the meaning set forth in the introduction to this Agreement.

“FP Material Adverse Effect” means any event, change or circumstance that, individually or in the aggregate with all other such events, changes or circumstances, that is materially adverse to the ability of the FP Parties to perform its obligations under any Transaction Document to which it is or will be a party or to consummate the transactions contemplated thereby.

“FP Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to FP, in substantially the form attached as Exhibit A to the Note Agreement..

“FP Parallel” has the meaning set forth in the introduction to this Agreement.

“FP Parents” means FP Holdco and FP Parallel.

“FP Parties” means FP Holdco, FP Co., FP Parallel and FP LLC.

“FP Purchase Agreement” means the FP Purchase Agreement entered into by FP Co., FP LLC and Holdings dated as of the Closing Date.

“GAAP” means generally accepted accounting principles in the United States of America, applied on a consistent basis, as in effect as of the date hereof.

“Governmental Approval” means an authorization, consent, approval, permit or license issued by, or a registration or filing with, or notice to, or waiver from, any Governmental Authority.

“Governmental Authority” means any United States or non-United States federal, territorial, state or local governmental authority, quasi-governmental authority, instrumentality, court, government or self-regulatory organization, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

“Guarantee” or “Guarantees” means that certain Guarantee of Specific Liabilities dated as of March 27, 2008 made by each of Intel and ST in favor of Intesa and the other lenders named in the Facilities Agreement.

“Guarantor” or “Guarantors” means each of ST and Intel in their capacity as guarantors of certain payment obligations of Numonyx under the Facilities Agreement pursuant to a Guarantee.

“Hazardous Substance” shall mean any hazardous substance within the meaning of Section 101(14) of the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601(14), and any chemical, substance, material, agent or waste defined or regulated as toxic, hazardous, extremely hazardous or radioactive, or as a

pollutant or contaminant, under any applicable Environmental Law, including petroleum, petroleum derivatives, petroleum by-products or other hydrocarbons, asbestos or asbestos-containing material and polychlorinated biphenyls.

“Holdings” means Numonyx Holdings B.V., a private company with limited liability organized under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands.

“Holdings Deed of Incorporation” shall have the meaning set forth in Section 4.16(a) of this Agreement.

“Holdings Indemnitees” means Holdings and its Subsidiaries, officers, directors, stockholders, representatives and agents; *provided, however*, that “Holdings Indemnitees” shall be deemed to exclude Intel, ST, the FP Parties and each of their respective Affiliates.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Hynix JV” means Hynix-ST Semiconductor Ltd., a wholly foreign-owned entity established under the laws of the People’s Republic of China.

“Hynix JV Junior Credit Agreement” means the US\$250,000,000 Facility Agreement, dated August 24, 2006, among the Hynix JV, as borrower, and DBS Bank Ltd. as arranger and original lender, agent and security agent, as amended and restated pursuant to the Master Amendment Agreement.

“IBA Rules of Evidence” means the IBA Rules on the Taking of Evidence in International Commercial Arbitration.

“ICC” means the International Chamber of Commerce.

“Indebtedness” means any (i) indebtedness for borrowed money, (ii) indebtedness evidenced by any bond, debenture, note, mortgage, indenture or other debt instrument or debt security, or (iii) guarantees with respect to any indebtedness or obligation of a type described in clauses (i) through (ii) above of any other Person.

“Indemnified Persons” has the meaning set forth in Section 4.16(d) of this Agreement.

“Infrastructure Procurement Agreement” means that certain Infrastructure Procurement Agreement entered into by and among Intel, ST and Holdings dated as of the Closing Date.

“Integrated Circuit” means an integrated unit comprising one or more active and/or passive circuit elements associated on one or more substrates, such unit forming, or contributing to the formation of, a circuit for performing electrical functions (including, if provided therewith, housing and/or supporting means).

“Intel” has the meaning set forth in the Introduction to this Agreement.

“Intel Aggregate Cash” has the meaning set forth in Section 2.6(b) of the Intel Asset Transfer Agreement.

“Intel Ancillary Agreements” means the Intel Assignment and Assumption Agreements, Intel Entity Bills of Sale, Intel Intellectual Property Agreement, Intel Transition Services Agreements, Intel Facility Transfer Agreements, Intel Joint Development Agreement, Intel Supply Agreements, Intel Entity Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreements, Intel Patent Assignment, Intel Trademark Assignment, Intel Entity Capitalization and Assignment Agreement, Intel Pudong Services Agreement, Intel Secondment Agreement and Intel Option.

“Intel Approvals” means the required consents, waivers and approvals of Intel set forth on Schedule 3.3 of the Intel ATA Disclosure Letter and Schedule 3.1(c) of the Intel Master Agreement Disclosure Letter.

“Intel Architecture Emulators” means software, firmware, or hardware that, through emulation, simulation or any other process, allows a computer that does not contain an Intel Compatible Processor (or a Processor that is not an Intel Compatible Processor) to execute binary code that is capable of being executed on an Intel Compatible Processor.

“Intel Asset Transfer Agreement” means that certain Asset Transfer Agreement entered into by and among Intel, Holdings and Numonyx dated as of the Closing Date.

“Intel Assignment and Assumption Agreement” means, collectively, the Assignment and Assumption Agreements entered into by Holdings or its Affiliates, on one hand, and Intel or its Affiliates, on the other hand, dated as of the Closing Date.

“Intel ATA Disclosure Letter” means the disclosure letter, as agreed to between the Parties as of the Signing Date (with such amendments or new schedules as have been subsequently made in accordance with Section 4.12 of this Agreement), containing the Schedules required by the provisions of the Intel Asset Transfer Agreement.

“Intel Books and Records” means all of the books of account, general and financial records, invoices, shipping records, customer records, supplier lists, correspondence and other documents, records and files of Intel and its Subsidiaries whether in hard copy or computer format which relate exclusively to the Intel Business and are necessary for the conduct of such Intel Business after the Closing (excluding all personnel records or any employee information for Intel Business Employees who are not Intel Transferred Employees employed by an Intel Transferred Entity as of the Closing Date).

“Intel Bus” means a proprietary bus or other proprietary data path first introduced by Intel or any Intel Licensed Subsidiary that (i) is capable of transmitting and/or receiving information within an Integrated Circuit or between two or more Integrated Circuits, together with the set of protocols defining the electrical, physical, timing and functional characteristics, sequences and control procedures of such bus or data path; and (ii) to which neither Intel nor any Intel Licensed Subsidiary (during any time such Intel Licensed Subsidiary has met the requirements of being a Licensed Subsidiary) has granted a license or committed to grant a license through its participation in a government sponsored, industry sponsored, or contractually



formed group or any similar organization that is dedicated to creating publicly available standards or specifications; and (iii) which neither Intel nor any Intel Licensed Subsidiary (during any time such Intel Licensed Subsidiary has met the requirements of being a Licensed Subsidiary) has publicly disclosed without an obligation of confidentiality.

“Intel Business” means the sale, manufacture, design and or development of NOR Flash Memory Products, Phase Change Memory technology (subject to Schedule 2.2(o) to the Intel ATA Disclosure Letter), and Stacked Memory Products.

“Intel Business Audited Financial Statements” shall have the meaning set forth in Section 5.2(h) of this Agreement.

“Intel Business Capital Expenditures Plan” means the plan set forth on Schedule 3.14(e) of the Intel ATA Disclosure Letter setting forth (i) the actual capital expenditures of Intel with respect to the Intel Business for its first fiscal quarter of 2007; and (ii) the budgeted capital expenditures of Intel with respect to the Intel Business for the second, third and fourth fiscal quarters of 2007 and the first fiscal quarter of 2008.

“Intel Business Employees” means the employees who are identified on Schedule 3.12(c) of the Intel ATA Disclosure Letter.

“Intel Compatible Chipsets” means one or more Integrated Circuits that alone or together are capable of electrically interfacing directly (with or without buffering or pin reassignment) with an Intel Compatible Processor to form the connection between the Intel Compatible Processor and any other device (or group of devices) including Processors, input/output devices, and networks; *provided* that an Integrated Circuit that functions primarily as a memory storage device shall not be deemed to be an Intel Compatible Chipset.

“Intel Compatible Compilers” means a compiler that generates object code that can, without any additional processing other than linkage processing, be executed on any Intel Processor.

“Intel Compatible Processors” means any Processor that (i) can perform substantially the same functions as an Intel Processor by compatibly executing or otherwise processing (A) 50% or more of the instruction set of an Intel Processor or (B) binary code versions of applications or other software targeted to run on or with an Intel Processor, in order to achieve substantially the same result as an Intel Processor; or (ii) is substantially compatible with an Intel Processor Bus.

“Intel Contract” means any Contract of Intel or its Subsidiaries.

“Intel Contractual Consents” shall have the meaning set forth in Section 3.8(b) of the Intel Asset Transfer Agreement.

“Intel Employee Transfer Date” means the date Intel Business Employees become Intel Transferred Employees employed by Holdings or any of its Subsidiaries.

“Intel Entity Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreement” shall have the meaning set forth in Section 2.4 of the Intel Asset Transfer Agreement.

“Intel Entity Bill of Sale” means any bill of sale or other similar document reasonably requested by any Party and reasonably necessary to transfer any Intel Transferred Asset in accordance with applicable law to be executed by one or more Intel Transferors in favor of Holdings or a Subsidiary of Holdings as of the Closing Date.

“Intel Entity Capitalization and Assignment Agreement” means that certain Intel Entity Capitalization and Assignment Agreement between Intel and Numonyx, dated as of the Closing Date.

“Intel Environmental Reports” means reports or audits prepared by the Environmental Consultants summarizing the results of Phase I, Phase II and environmental compliance audits regarding the Owned Intel Real Property, the Leased Intel Real Property and any property that is the subject of an Intel Lease, which shall be reasonably satisfactory to FP and ST in form and substance, and paid for by ST. At the request of Holdings or a Subsidiary of Holdings, Intel shall review the Intel Environmental Reports and confirm that all Environmental Liabilities identified in such reports are sufficiently identified as to scope as that term is used in clause (iii) of the definition of Intel Pre-Closing Environmental Liability. If Intel believes the issues are not sufficiently identified, Intel must pay for the additional investigation to further characterize the Environmental Liability sufficient to meet the criteria in clause (iii) of the definition of Intel Pre-Closing Environmental Liability.

“Intel Excluded Employees” shall have the meaning set forth in Section 4.11(b) of this Agreement.

“Intel Facility Transfer Agreements” means the agreements and other documents used to consummate or implement the transfer by Intel and its Subsidiaries to Holdings and its Subsidiaries of the assets described therein which shall be substantially based on the Intel Facility Transfer Term Sheets.

“Intel Facility Transfer Term Sheets” means the term sheets attached to Schedule 4.22(a) to the Intel Master Agreement Disclosure Letter reflecting the terms and conditions upon which the agreements and other related documents effecting the transfer by Intel and its Subsidiaries of the assets described therein to Holdings and its Subsidiaries.

“Intel Holdings Shares” shall have the meaning set forth in Section 2.6(a) of the Intel Asset Transfer Agreement.

“Intel Intellectual Property Agreement” means the Intellectual Property Agreement entered into by and between Intel, Holdings and Numonyx dated as of the Closing Date.

“Intel Joint Development Agreement” means the Joint Development Agreement entered into by and between Intel and Numonyx dated as of on the Closing Date.

“Intel Leases” means all leases or other occupancy agreements pursuant to which Intel or its Subsidiaries lease or occupy the Intel Transferred Leased Real Property.

“Intel Master Agreement Disclosure Letter” means the disclosure letter, as delivered by Intel to ST and the FP Parties as of the Signing Date (with such amendments as have been subsequently made in accordance with Section 4.12 of this Agreement), containing the Schedules required by the provisions of this Agreement.

“Intel Material Adverse Effect” means any event, change or circumstance that, individually or in the aggregate with all other such events, changes or circumstances, (i) results in a material adverse effect on, or material adverse change in, the Intel Transferred Assets, taken as a whole, or (ii) any event, change or circumstance that is materially adverse to the ability of Intel to perform its obligations under any Transaction Document to which it is or will be a party or to consummate the transactions contemplated thereby, other than, in the case of clause (i) above, such changes, effects or circumstances reasonably attributable to: (A) economic, capital market or political conditions generally in the United States or foreign economies in any locations where the Intel Business has material operations or sales, provided the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the Intel Business, (B) conditions generally affecting the industry in which the Intel Business operates, *provided* that the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the Intel Business; (C) the announcement or pendency of the transactions contemplated by the Transaction Documents; (D) outbreak of hostilities or war, acts of terrorism or acts of God; or (E) compliance with Intel’s obligations or the satisfaction of the conditions to the closing of the transactions contemplated by the Transaction Documents.

“Intel Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to Intel Singapore, in substantially the form attached as Exhibit A to the Note Agreement.

“Intel Option” means that certain Option to Purchase Ordinary Shares by and between Holdings and Intel Singapore dated March 29, 2008.

“Intel Patent Assignment” means any agreement for the assignment of Intel Transferred Patents by an Intel Transferor to Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Post-Closing Environmental Liability” shall mean any Environmental Liability, including a worsening of existing conditions, to the extent arising out of or relating to (i) acts of Holdings or any of its Affiliates occurring on or after the Effective Time, (ii) inaction of Holdings or any of its Affiliates occurring one year or later after the Effective Time, or (iii) inaction of Holdings or any of its Affiliates occurring within one year after the Effective Time if Holdings or any of its Affiliates knew about the existing condition and its inaction worsened the existing condition; and in connection with the Numonyx Business or the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets or the Intel Transferred Entities or the ownership or operation of a Numonyx Business or the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property or the Intel Transferred Assets, the Intel Transferred Entities by, or the

disposal or treatment of Hazardous Substances generated by, Holdings or an Affiliate of Holdings (including an Intel Transferred Entity) after the Effective Time.

“Intel Pre-Closing Environmental Liability” shall mean any Environmental Liability which (i) relates to the ownership or operation of the Intel Business (as now or previously conducted), the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, the Intel Transferred Entities or any other real property or facility owned, leased, operated or used in connection with the Intel Business (as now or previously conducted) or for the disposal or treatment of Hazardous Substances generated in connection with the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, or the Intel Transferred Entities, (ii) arises out of or relates to acts occurring or conditions existing prior to the Effective Time, but only to the extent that the Environmental Liability arising out of or relating to acts occurring or conditions existing prior to the Effective Time can be identified from (A) the Intel Environmental Reports so long as such reports are issued not later than one year subsequent to the Closing or (B) documents or data generated prior to the Effective Time and in the possession of Intel prior to the Effective Time, and (iii) is identified in the foregoing documents and/or data with sufficient specificity so as to clearly identify the scope of the Environmental Liability that is attributable to the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, or the Intel Transferred Entities. Notwithstanding the foregoing, Intel Pre-Closing Environmental Liability shall not include any Intel Post-Closing Environmental Liability.

“Intel Processor” means a Processor first developed by, for or with substantial participation by Intel or any Intel Licensed Subsidiary, or the design of which has been purchased or otherwise acquired by Intel or any Intel Licensed Subsidiary, including the Intel® 8086, 80186, 80286, 80386, 80486, Celeron®, Core™, Pentium®, Xeon™, StrongARM, XScale®, Itanium®, MXP, IXP, 80860 and 80960 microprocessor families, and the 8087, 80287, and 80387 math coprocessor families.

“Intel Processor Bus” means an Intel Bus that is capable of connecting one or more Intel Processors to each other or to an Intel Compatible Chipset.

“Intel Products” means all NOR Flash Memory Products and all Stacked Memory Products, manufactured, sold, or under development by Intel as of the Effective Date, including those listed on Schedule 1.1(c) of the Intel ATA Disclosure Letter.

“Intel Proprietary Product” means Intel Compatible Processors, Intel Architecture Emulators, Intel Compatible Compilers, any product that implements an Intel Processor Bus, and Intel Compatible Chipsets.

“Intel Pudong Services Agreement” means the Intel Pudong Services Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intel Restricted Employees” shall have the meaning set forth in Section 4.7(a) of this Agreement.

“Intel Retained Trade Secrets” means trade secrets, know-how and other proprietary information owned by Intel or any Licensed Subsidiary thereof as of the Closing Date and not included in the Intel Transferred Trade Secrets that are or have been used by Intel in connection with the Intel Business.

“Intel Secondment Agreement” means the Intel Personnel Secondment Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intel Singapore” means Intel Technology Asia Pte. Ltd., a limited liability company organized under the laws of Singapore.

“Intel Supply Agreement” means the Supply Agreement entered into by and between Intel and Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Trademark Assignment” means any agreement for the assignment of Intel Transferred Trademarks by an Intel Transferor to Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Transferors” shall have the meaning set forth in the Recitals of the Intel Asset Transfer Agreement.

“Intel Transferred Assets” shall have the meaning set forth in Section 2.1 of the Intel Asset Transfer Agreement.

“Intel Transferred Contracts” means all unexpired contracts set forth on Schedule 2.1(e) of the Intel ATA Disclosure Letter, together with the Intel Transferred Purchase Orders, the Intel Transferred Sales Orders and the Intel Leases.

“Intel Transferred Copyrights” means the Copyrights identified on Schedule 2.1(i) of the Intel ATA Disclosure Letter.

“Intel Transferred Employees” means the Intel Business Employees who accept an offer of employment from Numonyx or a Subsidiary of Numonyx and who begin their employment with Numonyx or a Subsidiary of Numonyx on the Intel Employee Transfer Date (or, to the extent permitted by Applicable Law with respect to inactive employees on short-term, medical or other leave of absence, at the time such employee returns to active status) or such other date as the parties may reasonably agree; *provided, however*, that Intel Business Employees must begin their employment with Numonyx or a Subsidiary of Numonyx no later than June 30, 2008, or such other date as required by Applicable Law or as otherwise mutually agreed upon by the Parties to be considered an Intel Transferred Employee.

“Intel Transferred Entities” means the entities set forth on Schedule 1.1(a) of the Intel ATA Disclosure Letter.

“Intel Transferred Entity Books and Records” means the minute books, stock records, Tax Returns and other records related to Taxes, if any, in each case of each of the Intel Transferred Entities.

“Intel Transferred Intellectual Property” means, collectively, the Intel Transferred Copyrights, Intel Transferred Patents, Intel Transferred Trademarks and Intel Transferred Trade Secrets.

“Intel Transferred Interests” means 100% of the outstanding equity, voting and profit interests in the Intel Transferred Entities.

“Intel Transferred Leased Real Property” means the real property leased by Intel or its Subsidiaries identified in Schedule 3.6(b) of the Intel ATA Disclosure Letter.

“Intel Transferred Liabilities” shall have the meaning set forth in Section 2.3 of the Intel Asset Transfer Agreement.

“Intel Transferred Owned Real Property” means the real property owned by Intel or its Subsidiaries identified in Schedule 3.6(a) of the Intel ATA Disclosure Letter.

“Intel Transferred Patents” means those Patents identified on Schedule 2.1(h) of the Intel ATA Disclosure Letter.

“Intel Transferred Real Property” means the Intel Transferred Owned Real Property and the Intel Transferred Leased Real Property transferred to Holdings or one of its Subsidiaries pursuant to the terms of the Intel Facility Transfer Agreements.

“Intel Transferred Sales Orders” means all pending and unfulfilled sales orders or portions thereof for Intel Products.

“Intel Transferred Trade Secrets” means any Trade Secrets owned by Intel or any of its Subsidiaries as of the Closing Date (including any such Trade Secrets that consist of technical documentation of the nature of the files and other documentation identified on Schedule 2.1(h) to the Intel ATA Disclosure Letter) that are used exclusively in the Intel Business and not materially embodied or used in or with any other current product or service of Intel or any of its Subsidiaries.

“Intel Transferred Trademarks” means those Trademarks identified on Schedule 2.1(k) of the Intel ATA Disclosure Letter.

“Intel Transition Services Agreement” means the Intel Transition Services Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intellectual Property” means intellectual property rights arising from or in respect of the following, whether protected, created or arising under the laws of the United States or any other jurisdiction: Copyrights, Trade Secrets, Patents and Trademarks.

“Intesa” means Intesa Sanpaolo S.p.A.

“Knowledge” means, with respect to any Person, the actual knowledge of such Person. Notwithstanding the foregoing, with respect to any Person that is a corporation, limited liability company, partnership or other business entity, actual knowledge shall be deemed to mean the

actual knowledge of all directors and officers of any such Person; *provided, however*, that (i) with respect to Intel, “Knowledge” shall be deemed to be solely the actual knowledge of the individuals identified in Section A of Schedule 1.1(b) of the Intel ATA Disclosure Letter, after obtaining from the individuals identified in Section B of Schedule 1.1(b) of the Intel ATA Disclosure Letter a certification as to their actual knowledge of each matter with respect to which Intel makes any representation or warranty as to its Knowledge under any Transaction Document, (ii) with respect to ST, “Knowledge” shall be deemed to be solely the actual knowledge of the individuals identified in Section A on Schedule 1.1(b) of the ST ACA Disclosure Letter, after obtaining from the individuals identified in Section B on Schedule 1.1(b) of the ST ACA Disclosure Letter a certification as to their actual knowledge of each matter with respect to which ST makes any representation or warranty as to its Knowledge under any Transaction Document, and (iii) with respect to the FP Parties, “Knowledge” shall be deemed to be solely the actual knowledge of Dipanjan Deb, Phokion Potamianos, and Keith Toh.

“Liability” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, asserted or unasserted, accrued or unaccrued, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, absolute, contingent, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

“Licensed Subsidiary” means any corporation, partnership, joint venture, limited liability company or other entity recognized in any jurisdiction in the world, now or hereafter, in which Intel, ST or Holdings, as the case may be, owns or controls (either directly or indirectly) any of the following:

- (i) if such entity has voting shares or stock or other voting securities, more than 50% of the outstanding shares or stock or securities entitled to vote for the election of directors or similar managing authority; or
- (ii) if such entity does not have voting shares or stock or other voting securities, more than 50% of the ownership interest that represents the right to make decisions for such entity; or
- (iii) any other ability to elect more than half of the board of directors or similar managing authority of the subject entity, whether by contract or otherwise.

An entity shall be deemed to be a Licensed Subsidiary under this Agreement only so long as the Party (Holdings, Intel or ST, as the case may be) owning or controlling the shares, stock, securities or other ownership interest required above has not contractually or otherwise surrendered, limited or in any other way constrained its authority to elect the managing authority or make decisions for the entity, and only so long as all the requisite conditions of being a Licensed Subsidiary are met. For clarity, any event causing a Person that was once a Licensed Subsidiary to no longer meet the requisite conditions of being a Licensed Subsidiary as set forth in this Section, shall render such Person to be no longer a Licensed Subsidiary.

“Licensing Affiliate”, with respect to any Person, means any other Person directly or indirectly Controlling, Controlled by or under common Control with, such Person.

“Lien” means, with respect to any asset, any lien, mortgage, pledge, hypothecation, right of others, claim, security interest, encumbrance, lease, sublease, license, interest, option, charge or other restriction or limitation of any nature whatsoever in respect of such asset, including any Share Encumbrance; *provided, however*, that any license of Intellectual Property shall not be considered a Lien on such Intellectual Property.

“Losses” means any and all deficiencies, judgments, settlements, demands, claims, suits, actions or causes of action, assessments, liabilities, losses, damages (excluding indirect, incidental or consequential damages), interest, fines, penalties, costs and expenses (including reasonable legal, accounting and other costs and expenses) incurred in connection with investigating, defending, settling or satisfying any and all demands, claims, actions, causes of action, suits, proceedings, assessments, judgments or appeals, and in seeking indemnification therefor.

“Management Board” means the “Managing Board” as referenced in the Articles of Association.

“Managing Director” means any member of Holdings’ Management Board.

“Master Agreement” has the meaning set forth in the introduction to this Agreement.

“Master Agreement Disclosure Letter” means each of the Intel Master Agreement Disclosure Letter and the ST Master Agreement Disclosure Letter.

“Master Amendment Agreement” means the Master Amendment Agreement dated December 20, 2007 entered into among the Hynix JV, as borrower, DBS Bank Ltd. as the Phase I Junior Lender, Phase I Junior Security Agent and Phase I Junior Facility Agent, the banks and financial institutions acting as the lenders under the US \$750,000,000 (Phase I) Loan Agreement dated August 11, 2006 and the other parties thereto, which amends and restates the Phase I loan documents.

“Memory Device” shall mean an Integrated Circuit alone and not in combination with any other product containing one or more memory cells, together with the circuit elements connected to the memory cells that are functionally necessary for carrying out memory hierarchy functions in association with the memory cells, including, by way of example, decoding circuits, control circuits for memory sequencing, sensing circuits, input protection circuits, high speed interface circuits, signal I/O amplification circuits, redundancy circuits, delay elements, test mode control circuits, reliability stress algorithms, address transition detection circuits, user selectable operating mode detection circuits, reference generators or voltage generator modules. Memory Device does not include Processors or Intel Proprietary Products.

“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 a NAND Flash Memory Integrated Circuit, in die, wafer, or packaged form, that utilizes (i) electrically programmable and electrically erasable utilizing floating gate to substrate Fowler-Nordheim charge transfer mechanism for both programming and erase operations; (ii) electrically programmable and electrically erasable utilizing floating gate to substrate Fowler-Nordheim charge transfer mechanism for programming and hot-hole injection for erase operations; or (iii) memory cells arranged in groups of serially connect memory cells (each such group of serially connect 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.

“NOR 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 connected memory cells in which the gate, source and drain of each memory cell is directly accessible.

“NOR Flash Memory Product” means a NOR Flash Memory Integrated Circuit, in die, wafer or packaged form, utilizing a hot carrier injection programming mechanism and one floating gate charge storage region per transistor whereby the memory array is arranged so that the drain of one memory cell is connected directly to a source line through at most one memory transistor.

“Note Agreement” means the Note Agreement entered into by and among Holdings, Intel Singapore, ST and FP dated as of the Closing Date.

“Noteholder” means a holder of Intel Notes, ST Notes or the FP Notes, and each Person (other than Holdings) that shall be a party to the Note Agreement and Securityholders’ Agreement as a holder of Notes, whether in connection with the execution and delivery thereof as of the Closing Date or otherwise, so long as such Person shall beneficially own, hold of record or be a registered holder of any Notes.

“Notes” means, collectively, the Intel Notes, ST Notes and FP Notes issued on the Closing Date, in an aggregate amount of \$320,230,000.

“Numonyx” means Numonyx B.V., a private company with limited liability organized under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands.

“Numonyx Allocated Positions” means those positions with Holdings or a Subsidiary of Holdings for which an Intel Business Employee or an ST Business Employee is not allocated on Schedule 3.12(c) to the Intel ATA Disclosure Letter or Schedule 3.12(c) to the ST ACA Disclosure Letter.

“Numonyx Approvals” means any Governmental Approval which Intel, ST and FP reasonably agree Holdings or any of its Affiliates must obtain in order to consummate the transactions contemplated by the Transaction Documents.

“Numonyx Business” means the sale, manufacture, design and/or development of advanced memory solutions, including Flash Memory Integrated Circuits, Phase Change Memory Products, Stacked Memory Products and platform memory products which include data management memory components for applications including without limitation cellular phones, memory cards, digital audio players, data processing platform memory and embedded form factors.

“Numonyx Deed of Incorporation” shall have the meaning set forth in Section 4.16(c) of this Agreement.

“Numonyx Italy” means STMicroelectronics (M6) S.r.l., a company organized under the laws of Italy.

“Numonyx Transition Services Agreement” means the Numonyx Transition Services Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“Ordinary Shares” means ordinary shares of Holdings, par value one euro per share.

“Original Master Agreement” has the meaning set forth in the Recitals to this Agreement.

“Party” has the meaning set forth in the introduction to this Agreement.

“Patents” means patents and applications worldwide, including continuation, divisional, continuation in part, reexamination, or reissue patent applications and patents issuing thereon.

“Permits” means all permits, licenses, franchises, approvals, certificates, consents, waivers, concessions, exemptions, orders, registrations, notices or other authorizations of any Governmental Authority necessary for a Party or its Subsidiaries to own, lease and operate such Party’s Transferred Assets and to carry on such Party’s Business as currently conducted.

“Permitted Liens” means (i) Liens for Taxes or governmental assessments, charges or claims the payment of which is not yet due or which are both (A) being contested in good faith, and (B) described in reasonable detail on a Schedule to the applicable Transaction Document, (ii) statutory Liens of landlords and statutory Liens of carriers, warehousemen, mechanics or materialmen incurred in the ordinary course of business which are either for sums not yet due or are immaterial in amount, (iii) zoning, entitlement, and other land use laws, and (iv) easements and other imperfections of title or encumbrances, in each case, that do not materially detract from the value of the relevant Transferred Asset or materially interfere with any present or intended use of such Transferred Asset.

“Permitted Transferee” means with respect to a Shareholder or Noteholder, any direct or indirect wholly owned subsidiary of such Shareholder or Noteholder, any parent company that directly or indirectly wholly owns such Shareholder or Noteholder, or any direct or indirect wholly owned subsidiary of such parent company.

“Person” means an individual, corporation, partnership, association, limited liability company, trust, estate or other similar business entity or organization, including a Governmental

Authority and any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Phase Change Memory” or “PCM” means a Memory Device in die, wafer or packaged form, adjusting the phase of material, such as a chalcogenide, as a means to store one or more different data states (including binary or multi-level cell structures) with or without any on-chip control, I/O and other support circuitry.

“Phase Change Memory Products” or “PCM Products” mean non-volatile memory Integrated Circuits that contain memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more structures that contain a chalcogenide or any other functionally equivalent phase change material utilizing one or more different material phases (including binary or multi-level cell structures), with or without any on-chip control, I/O and other support circuitry.

“Pledge Agreements” means those certain pledge agreements entered into by Holdings and Numonyx in favor of the Guarantors, as security for satisfaction of the Reimbursement Obligations.

“Proceeding” means any action, suit, claim, charge, hearing, arbitration, audit, or proceeding (public or private).

“Processor” means any Integrated Circuit or combination of Integrated Circuits capable of processing digital data, such as a microprocessor or coprocessor (including a math coprocessor, graphics coprocessor, or digital signal processor).

“Prohibited Transaction” shall have the meaning set forth in Section 4.2 of this Agreement.

“Receiving Party” shall (i) for purposes of the Intel Asset Transfer Agreement, have the meaning set forth in Section 5.1(b) of the Intel Asset Transfer Agreement, (ii) for purposes of the ST Asset Contribution Agreement, have the meaning set forth in Section 5.1(b) of the ST Asset Contribution Agreement and (iii) for purposes of the Intel Intellectual Property Agreement and the ST Intellectual Property Agreement, with respect to Confidential Information of a Party, mean another Party that is not a Licensing Affiliate of such Party and that receives (or receives access to) such Confidential Information pursuant to or in connection with the Intel Intellectual Property Agreement or the ST Intellectual Property Agreement.

“Release” means (i) any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or other release of any Hazardous Substance at, in, on, into, or onto the environment; (ii) the abandonment or discard of barrels, containers, tanks, or other receptacles containing or previously containing any Hazardous Substance; or (iii) any release, emission, or discharge, as those terms are defined in any applicable Environmental Laws.

“Reimbursement Obligations” means the obligations of Holdings and Numonyx and their respective Subsidiaries pursuant to the Contribution Agreement, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred.

“Remedial Action” means investigation, evaluation, risk assessment, monitoring, response, removal, clean-up, remediation, corrective action or other terms of similar import and any related closure, post-closure, operations and maintenance or engineering control activities.

“Restricted Employee” means any ST Restricted Employee, any Intel Restricted Employee and any Numonyx Restricted Employee.

“Securityholders’ Agreement” means the Securityholders’ Agreement entered to by and among Intel (as used in this definition, “Intel” has the meaning ascribed to such term in the Securityholders’ Agreement), ST, the FP Parties, Holdings, the Noteholders, and the Guarantors, dated as of the Closing Date.

“Series A Preferred Shares” means Series A convertible preferred shares of Holdings, par value one euro per share.

“Series A-1 Preferred Shares” means Series A-1 non-convertible preferred shares of Holdings, par value one eurocent per share.

“Share Encumbrances” means Liens, claims, options, rights of other parties, voting trusts, proxies, shareholder or similar agreements, encumbrances or other restrictions (other than restrictions imposed by applicable securities laws).

“Shareholder” means each Person (other than Holdings) that shall be a party to the Securityholders’ Agreement as a holder of Shares, whether in connection with the execution and delivery thereof as of the Closing Date or otherwise, so long as such Person shall beneficially own, hold of record or be a registered holder of any Shares.

“Shares” means the Ordinary Shares, the Preferred Shares and any other shares of the share capital of Holdings issued on or after the date of the Securityholders’ Agreement.

“Signing Date” means May 22, 2007.

“Specified Intel Representations” means any representation or warranty made by Intel in Sections 3.1 through 3.24 (other than Section 3.17) of the Intel Asset Transfer Agreement or Sections 3.1(a) through 3.1(g) of this Agreement (other than Section 3.17 of the Intel Asset Transfer Agreement).

“Specified Intel Schedules” means Schedule 3.1 through 3.24 (other than Schedule 3.17) of the Intel ATA Disclosure Letter or Schedules 3.1(a) through 3.1(g) of the Intel Master Agreement Disclosure Letter.

“Specified Holdings Representations” means any representation or warranty made by Holdings or Numonyx in Sections 4.1 through 4.8 of either of the Intel Asset Transfer Agreement or the ST Asset Contribution Agreement.

“Specified ST Representations” means any representation or warranty made by ST in Sections 3.1 through 3.24 (other than Section 3.17) of the ST Asset Contribution Agreement or

Sections 3.2(a) through 3.2(g) of this Agreement (other than Section 3.17 of the ST Asset Contribution Agreement).

“Specified ST Schedules” means Schedule 3.1 through 3.24 (other than Schedule 3.17) of the ST ACA Disclosure Letter or Schedules 3.2(a) through 3.2(g) of the ST Master Agreement Disclosure Letter.

“ST” has the meaning set forth in the introduction to this Agreement.

“ST ACA Disclosure Letter” means the disclosure letter, as agreed to between the Parties as of the Signing Date (with such amendments as have been subsequently made in accordance with Section 4.12 of this Agreement), containing the Schedules required by the provisions of the ST Asset Contribution Agreement.

“ST Ancillary Agreements” means the ST Assignment and Assumption Agreement, ST Bill of Sale, ST Intellectual Property Agreement, ST Transition Services Agreements, ST Facility Transfer Agreements, ST Joint Development Agreement, ST (EWS) Supply Agreement, ST Back-End Supply Agreement, ST M5 Consortium Agreement, ST R2 Consortium Agreement, TFR Indemnification Agreement, Bank Guarantee, ST Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreements, ST Patent Assignment, ST Trademark Assignment, the Numonyx Transition Services Agreement, ST Secondment Agreement and ST Entity Capitalization and Assignment Agreement.

“ST Approvals” means the required consents, waivers and approvals of ST set forth on Schedule 3.3 of the ST ACA Disclosure Letter and Schedule 3.2(c) of the ST Master Agreement Disclosure Letter.

“ST Asset Contribution Agreement” means that certain Asset Contribution Agreement entered into by and among ST, Holdings and Numonyx dated as of the Closing Date.

“ST Assignment and Assumption Agreement” means, collectively, the Assignment and Assumption Agreements to be entered into by Numonyx or its Affiliates, on one hand, and ST or its Affiliates, on the other hand, as of the Closing Date.

“ST Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreement” shall have the meaning set forth in Section 2.4 of the ST Asset Contribution Agreement.

“ST Back-End Supply Agreement” means the ST Back-End Supply Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Bill of Sale” means any bill of sale, deed of contribution or other similar document reasonably requested by any Party and reasonably necessary to transfer any ST Transferred Asset in accordance with applicable law to be executed by one or more ST Transferors in favor of Holdings or a Subsidiary of Holdings as of the Closing Date.

“ST Books and Records” means all of the books of account, general and financial records, invoices, shipping records, customer records, supplier lists, correspondence and other

documents, records and files of ST and its Subsidiaries whether in hard copy or computer format which relate exclusively to the ST Business and are necessary for the conduct of such ST Business after the Closing (excluding all personnel records or any employee information for ST Business Employees who are not ST Transferred Employees employed by an ST Transferred Entity as of the Closing Date).

“ST Business” means the sale, manufacture, design and or development of NOR Flash Memory Products, NAND Flash Memory Products, Phase Change Memory Products and Stacked Memory Products.

“ST Business Audited Financial Statements” shall have the meaning set forth in Section 5.1(h) of this Agreement.

“ST Business Capital Expenditures Plan” means the plan set forth on Schedule 3.14(e) of the ST ACA Disclosure Letter setting forth (i) the actual capital expenditures of ST with respect to the ST Business for its first fiscal quarter of 2007; and (ii) the budgeted capital expenditures of ST with respect to the ST Business for the second, third and fourth fiscal quarters of 2007 and the first fiscal quarter of 2008.

“ST Business Employees” means the employees who are identified on Schedule 3.12(c) of the ST ACA Disclosure Letter.

“ST Consideration” has the meaning set forth in Section 2.6(b) of the ST Asset Contribution Agreement.

“ST Contract” means any Contract of ST or its Subsidiaries.

“ST Contractual Consents” shall have the meaning set forth in Section 3.8(b) of the ST Asset Contribution Agreement.

“ST Designated Employees” means those ST Business Employees who are identified as ST Designated Employees on Schedule 4.11(a) of the ST Master Disclosure Letter.

“ST Entity Capitalization and Assignment Agreement” means the ST Entity Capitalization and Assignment Agreement entered into by and between ST and Numonyx, dated as of the Closing Date and effective immediately prior to the Closing.

“ST Environmental Reports” means reports or audits prepared by the Environmental Consultants summarizing the results of Phase I, Phase II and environmental compliance audits regarding the Owned ST Real Property, the Leased ST Real Property and any property that is the subject of an ST Lease, which shall be reasonably satisfactory to FP and Intel in form and substance, and paid for by Intel. At the request of Holdings or a Subsidiary of Holdings, ST shall review the ST Environmental Reports and confirm that all Environmental Liabilities identified in such reports are sufficiently identified as to scope as that term is used in clause (iii) of the definition of ST Pre-Closing Environmental Liability. If ST believes the issues are not sufficiently identified, ST must pay for the additional investigation to further characterize the Environmental Liability sufficient to meet the criteria in clause (iii) of the definition of ST Pre-Closing Environmental Liability.

“ST (EWS) Supply Agreement” means the ST (EWS) Supply Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Excluded Employees” shall have the meaning set forth in Section 4.11(b) of this Agreement.

“ST Facility Transfer Agreements” means the agreements and other documents used to consummate or implement the transfer by ST and its Subsidiaries to Numonyx and its Subsidiaries of the assets described therein which shall be substantially based on the ST Facility Transfer Term Sheets.

“ST Facility Transfer Term Sheets” means the term sheets attached to Schedule 4.22(a) to the ST Master Agreement Disclosure Letter reflecting the terms and conditions upon which the agreements and other related documents effecting the transfer by ST and its Subsidiaries of the assets described therein to Numonyx and its Subsidiaries shall be substantially based.

“ST Intellectual Property Agreement” means the Intellectual Property Agreement entered into by and between ST, Holdings and Numonyx dated as of the Closing Date.

“ST Joint Development Agreement” means the Joint Development Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Leases” means all leases or other occupancy agreements pursuant to which Intel or its Subsidiaries lease or occupy the ST Transferred Leased Real Property.

“ST M5 Consortium Agreement” means the ST M5 Consortium Agreement by and between Numonyx Italy and STMicroelectronics S.r.l. dated October 24, 2007, as amended.

“ST Master Agreement Disclosure Letter” means the disclosure letter, as delivered by ST to Intel and the FP Parties as of the Signing Date (with such amendments as have been subsequently made in accordance with Section 4.12 of this Agreement), containing the Schedules required by the provisions of this Agreement.

“ST Material Adverse Effect” means any event, change or circumstance that, individually or in the aggregate with all other such events, changes or circumstances, (a) results in a material adverse effect on, or material adverse change in, the ST Transferred Assets, taken as a whole, or (b) any event, change or circumstance that is materially adverse to the ability of ST to perform its obligations under any Transaction Document to which it is or will be a party or to consummate the transactions contemplated thereby, other than, in the case of clause (a) above, such changes, effects or circumstances reasonably attributable to: (i) economic, capital market or political conditions generally in the United States or foreign economies in any locations where the ST Business has material operations or sales, provided the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the ST Business, (ii) conditions generally affecting the industry in which the ST Business operates, *provided* that the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the ST Business; (iii) the announcement or pendency of the transactions contemplated by the Transaction Documents; (iv) outbreak of hostilities or war, acts of terrorism or acts of God; or (v) compliance with ST’s obligations or the

satisfaction of the conditions to the closing of the transactions contemplated by the Transaction Documents.

“ST Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to ST, in substantially the form attached as Exhibit A to the Note Agreement.

“ST Numonyx Shares” shall have the meaning set forth in Section 2.6(a) of the ST Asset Contribution Agreement.

“ST Patent Assignment” means any agreement for the assignment of ST Transferred Patents by an ST Transferor to Numonyx dated as of the Closing Date.

“ST Post-Closing Environmental Liability” shall mean any Environmental Liability, including a worsening of existing conditions, to the extent arising out of or relating to (i) acts of Holdings or any of its Affiliates occurring on or after the Effective Time, (ii) inaction by Holdings or any of its Affiliates occurring one year or later after the Effective Time, or (iii) inaction by Holdings or any of its Affiliates occurring within one year after the Effective Time if Holdings or any of its Affiliates knew about the existing condition and its inaction worsened the existing condition; and in connection with the Numonyx Business or the ST Business, the ST Transferred Owned Real Property, the ST Transferred Leased Real Property, the ST Transferred Assets or the ST Transferred Entities or the ownership or operation of a Numonyx Business or the ST Business, the ST Transferred Owned Real Property, the ST Transferred Leased Real Property or the ST Transferred Assets, the ST Transferred Entities by, or the disposal or treatment of Hazardous Substances generated by, Holdings or an Affiliate of Holdings (including an ST Transferred Entity) after the Effective Time.

“ST Pre-Closing Environmental Liability” shall mean any Environmental Liability which (i) relates to the ownership or operation of the ST Business (as now or previously conducted), the ST Transferred Owned Real Property, the ST Transferred Leased Real Property, the ST Transferred Assets, the ST Transferred Entities or any other real property or facility owned, leased, operated or used in connection with the ST Business (as now or previously conducted) or for the disposal or treatment of Hazardous Substances generated in connection with the ST Business, the ST Transferred Owned Real Property, the ST Transferred Leased Real Property, the ST Transferred Assets, or the ST Transferred Entities, (ii) arises out of or relates to acts occurring or conditions existing prior to the Effective Time, but only to the extent that the Environmental Liability arising out of or relating to acts occurring or conditions existing prior to the Effective Time can be identified from (A) the ST Environmental Reports so long as such reports are issued not later than one (1) year subsequent to the Closing or (B) documents or data generated prior to the Effective Time and in the possession of ST prior to the Effective Time, and (iii) is identified in the foregoing documents and/or data with sufficient specificity so as to clearly identify the scope of the Environmental Liability that is attributable to the ST Business, the ST Transferred Owned Real Property, the ST Transferred Leased Real Property, the ST Transferred Assets, or the ST Transferred Entities. Notwithstanding the foregoing, ST Pre-Closing Environmental Liability shall not include any ST Post-Closing Environmental Liability.



“ST Products” means NOR Flash Memory Products, NAND Flash Memory Products, and Stacked Memory Products, including those listed on Schedule 1.1(c) of the ST ACA Disclosure Letter.

“ST R2 Consortium Agreement” means the ST R2 Consortium Agreement by and between Numonyx Italy and STMicroelectronics S.r.l., dated October 24, 2007, as amended.

“ST Real Property” means all real property, leaseholds and other interests in real property owned or leased by ST or its Subsidiaries and used or held for use exclusively in the ST Business, including all real property identified in Schedule 3.6 of the ST ACA Disclosure Letter, together in each case with ST’s or its Subsidiary’s right, title and interest in and to all structures, facilities or improvements currently or as of the Closing Date located thereon and all easements, licenses, rights and appurtenances relating to the foregoing.

“ST Restricted Employees” shall have the meaning set forth in Section 4.7(b) of this Agreement.

“ST Retained Trade Secrets” means trade secrets, know-how and other proprietary information owned by ST or any Licensed Subsidiary thereof as of the Effective Date and not included in the ST Transferred Trade Secrets that are or have been used by ST in connection with the ST Business.

“ST Secondment Agreement” means the ST Personnel Secondment Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Trademark Assignment” means any agreement for the assignment of ST Transferred Trademarks by ST to Numonyx dated as of the Closing Date.

“ST Transferors” shall have the meaning set forth in the Recitals of the ST Asset Contribution Agreement.

“ST Transferred Assets” shall have the meaning set forth in Section 2.1 of the ST Asset Contribution Agreement.

“ST Transferred Contracts” means all unexpired contracts set forth on Schedule 2.1(e) of the ST ACA Disclosure Letter, together with the ST Transferred Purchase Orders, the ST Transferred Sales Orders and the ST Leases.

“ST Transferred Employees” means the ST Business Employees and ST Designated Employees who accept an offer of employment from Numonyx or a Subsidiary of Numonyx and who begin their employment with Numonyx or such Subsidiary at the Closing or the ST Employee Transfer Date (or, to the extent permitted by Applicable Law with respect to inactive employees on short-term, medical or other leave of absence, at the time such employee returns to active status) or such other date as the parties may reasonably agree; provided, however, that ST Business Employees must begin their employment with Numonyx or a Subsidiary of Numonyx no later than June 30, 2008, or such other date as required by Applicable Law or as otherwise mutually agreed upon by the Parties, to be considered an ST Transferred Employee.

“ST Transferred Entities” means the entities set forth on Schedule 1.1(a) of the ST ACA Disclosure Letter.

“ST Transferred Intellectual Property” means, collectively, the ST Transferred Copyrights, ST Transferred Patents, ST Transferred Trademarks and ST Transferred Trade Secrets.

“ST Transferred Interests” means 100% of the outstanding equity, voting and profit interests in the ST Transferred Entities.

“ST Transferred Leased Real Property” means the real property leased by ST or its Subsidiaries identified in Schedule 3.6(b) of the ST ACA Disclosure Letter.

“ST Transferred Liabilities” shall have the meaning set forth in Section 2.3 of the ST Asset Contribution Agreement.

“ST Transferred Owned Real Property” means the real property owned by ST or its Subsidiaries identified in Schedule 3.6(a) of the ST ACA Disclosure Letter.

“ST Transferred Purchase Orders” means each purchase order or portion thereof issued by ST or a Subsidiary of ST to the extent relating to the ST Business.

“ST Transferred Real Property” means the ST Transferred Owned Real Property and the ST Transferred Leased Real Property transferred to Numonyx or one of its Subsidiaries pursuant to the terms of the ST Facility Transfer Agreements.

“ST Transferred Sales Orders” means all pending and unfulfilled sales orders or portions thereof for ST Products.

“ST Transferred Trademarks” means those Trademarks identified on Schedule 2.1(k) of the ST ACA Disclosure Letter.

“ST Transferred Trade Secrets” means any Trade Secrets owned by ST or any of its Subsidiaries as of the Closing Date (including any such Trade Secrets that consist of technical documentation of the nature of the files and other documentation identified on Schedule 2.1(h) to the ST ACA Disclosure Letter) that are used exclusively in the ST Business and not materially embodied or used in or with any other current product or service of ST or any of its Subsidiaries.

“ST Transition Services Agreement” means the ST Transition Services Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“Stacked Memory Products” means the assembly of multiple Memory Devices packaged together as a single product unit which fits within the footprint associated with a single Memory Device socket. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to include within the Intel Transferred Assets or ST Transferred Assets any Intellectual Property for non-NOR Flash Memory Integrated Circuits that may be components of Stacked Memory Products.

“Subsidiary” means, with respect to any Person, (i) any corporation, limited liability company or other similar entity as to which more than 50% of the outstanding capital stock or other securities having voting rights or power is owned or controlled, directly or indirectly, by such Person and/or by one or more of such Person’s direct or indirect subsidiaries and (ii) any Person with a partnership, joint venture or other similar relationship between such Persons and any other Person; *provided, however*, that with respect to Intel, Silicon Philippines, Inc., a corporation organized and existing under Philippines law (“SPI”), shall be deemed to be a Subsidiary of Intel for purposes of the Transaction Documents and for convenience only, and such inclusion of SPI within this definition shall not imply that such entity is a subsidiary or affiliate of Intel for any purpose independent of the Transaction Documents.

“Tax Returns” means all returns, declarations, reports, statements, information statements, forms or other documents filed or required to be filed with respect to any Tax.

“Taxes” means (i) all foreign, federal, state, local and other net income, gross income, gross receipts, sales, use, ad valorem, value added, intangible, unitary, capital gain, transfer, franchise, profits, license, lease, service, service use, withholding, backup withholding, payroll, employment, estimated, excise, severance, stamp, occupation, premium, property, prohibited transactions, windfall or excess profits, value added tax, goods and services tax, social service tax, import tax, export tax, or other taxes of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, (ii) any Liability for payment of amounts described in clause (i) whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period, or otherwise through operation of law, and (iii) any Liability for the payment of amounts described in clause (i) or (ii) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person for Taxes; and the term “Tax” means any one of the foregoing Taxes.

“Termination Date” means April 1, 2008, subject to extension as provided in Article VI of this Agreement.

“TFR Indemnification Agreement” means the TFR Indemnification Agreement entered into by and between Numonyx and ST dated as of the Closing Date.

“Third Party” means, with respect to any Shareholder, any other Person other than any Permitted Transferee of such Shareholder and, with respect to Holdings, any other Person other than its Subsidiaries.

“Third Party Appraisal Firm” shall have the meaning set forth in Section 4.13 of this Agreement.

“Trade Secrets” means confidential know how, inventions, discoveries, concepts, ideas, methods, processes, designs, formulae, technical data, source code, drawings, specifications (including logic specifications), data bases, data sheets, customer lists, Customer Data and other confidential information that constitute trade secrets under Applicable Law, in each case excluding any rights in respect of any of the foregoing that comprise Copyrights, mask work rights or Patents.

“Trademarks” means trademarks and registrations and applications therefor.

“Transaction Documents” means the Master Agreement, the Intel Asset Transfer Agreement, the ST Asset Contribution Agreement, the FP Purchase Agreement, the Intel Ancillary Agreements, the ST Ancillary Agreements, the Securityholders’ Agreement, the Note Agreement, the Notes, the Guarantees, the Contribution Agreement, Pledge Agreement, Infrastructure Procurement Agreement, the Confidentiality Agreements, and all of the documents contemplated by any such agreement or entered into by any of the Parties thereto or their Subsidiaries in connection with the transactions contemplated by such agreements.

“Unicredit” means Unicredit Banca D’Impresa S.p.A.

ASSET TRANSFER AGREEMENT

By and Between

NUMONYX HOLDINGS B.V.,

NUMONYX B.V.,

and

INTEL CORPORATION

Dated as of March 30, 2008

---

## TABLE OF CONTENTS

	Page
INTEL ASSET TRANSFER AGREEMENT	i
ARTICLE I DEFINITIONS	6
1.1 Definitions	6
1.2 Defined Terms Generally	7
ARTICLE II Transfer Of Assets	7
2.1 Intel Transferred Assets	7
2.2 Intel Excluded Assets	9
2.3 Intel Transferred Liabilities	10
2.4 Intel Excluded Liabilities	11
2.5 Assignment of Contracts and Rights	12
2.7 Minimum Inventory	15
2.8 Intel Transferred Employee Liabilities	16
2.9 Capital Expenditures	17
2.10 Deliveries by Holdings	18
2.11 Pre Closing Deliveries by Intel	19
2.12 Closing	19
2.13 Post Closing Registrations and Confirmations	20
ARTICLE III REPRESENTATIONS AND WARRANTIES OF INTEL	20
3.1 Existence and Good Standing	20
3.2 Authorization and Enforceability	21
3.3 Governmental Authorization	21
3.4 Non-Contravention	21
3.5 Personal Property	22
3.6 Real Property	22

3.7 Litigation	Page 23
3.8 Intel Transferred Contracts and Consents	23
3.9 Compliance with Applicable Laws	23
3.10 Tax Matters	24
3.11 Intellectual Property	26
3.12 Employee Matters	27
3.13 Financial Information	28
3.14 Absence of Certain Changes	28
3.15 Environmental Matters	29
3.16 Product Warranties	30
3.17 Transferred Assets	30
3.18 Customers	31
3.19 Insurance	31
3.20 Inventories	31
3.21 Advisory Fees	31
3.22 Representations Regarding Intel Transferred Entities and Intel Transferred Interests	31
3.23 Investment Representations	32
3.24 Disclaimer of Warranties	33
ARTICLE IV REPRESENTATIONS AND WARRANTIES OF HOLDINGS AND NUMONYX	33
4.1 Existence and Good Standing	33
4.2 Authorization and Enforceability	34
4.3 Non-Contravention	34
4.4 Capitalization	34
4.5 Valid Issuance of Shares	35

4.6 Exempt Offering	Page 36
4.7 Lack of Registration Rights and Voting Agreements	36
4.8 Reliance	36
ARTICLE V COVENANTS	37
5.1 Access to Information	37
5.2 Compliance with Terms of Governmental Approvals and Consents	37
5.3 Use of Marks	38
5.4 Cooperation in Third Party Litigation	38
5.5 Assignments	38
5.6 Reasonable Efforts	39
5.7 Allocation of Non-Tax Operating Expenses	39
5.8 Tax Matters	39
5.9 Accounts Receivable	43
5.10 Accounts Payable	43
5.11 Employees	44
5.12 Protection of Privacy	46
5.13 Export Compliance	47
5.14 Satisfaction of Intel Pre-Closing Product Obligations	47
5.15 Additional Intel Financial Statements	47
5.16 Settlement of Claims	48
5.17 Retained Equipment and D2 Equipment	48
5.18 Master Agreement Covenants	50
5.19 Further Assurances	50
5.20 Outstanding Checks; Bank Accounts	50
5.21 Release of Liens	51



ARTICLE VI INDEMNIFICATION	Page
6.1 General Survival	51
6.2 Indemnification	51
6.3 Manner of Indemnification	54
6.4 Third-Party Claims	54
6.5 Exclusive Remedy and Waiver and Release of Certain Claims	55
6.6 Subrogation	56
6.7 Damages	56
6.8 Environmental Indemnification Procedures	56
ARTICLE VII MISCELLANEOUS	58
7.1 Notices	58
7.2 Amendments; Waivers	61
7.3 Expenses	61
7.4 Successors and Assigns	62
7.5 Governing Law	62
7.6 Counterparts; Effectiveness	62
7.7 Entire Agreement	62
7.8 Captions	62
7.9 Severability	62
7.10 Dispute Resolution	62
7.11 Submission to Jurisdiction; Waiver of Jury Trial	65
7.12 Third Party Beneficiaries	65
7.13 Specific Performance	65
7.14 No Presumption Against Drafting Party	66

## INTEL ASSET TRANSFER AGREEMENT

THIS INTEL ASSET TRANSFER AGREEMENT (the “Intel Asset Transfer Agreement” and, as referred to herein, this “Agreement”), dated as of March 30, 2008, is by and between Intel Corporation, a Delaware corporation (“Intel”), Numonyx Holdings B.V., a company with limited liability organized under the laws of The Netherlands (“Holdings”), and Numonyx B.V., a company with limited liability organized under the laws of The Netherlands and wholly owned subsidiary of Holdings (“Numonyx”). Intel, Holdings and Numonyx are sometimes referred to herein as the “Parties” and each individually as a “Party.”

A. Intel desires to transfer, and to cause certain of its Affiliates to transfer (Intel and such Affiliates, collectively, the “Intel Transferors”) to Holdings and its Affiliates, and Holdings desires to acquire, and to cause its Affiliates to acquire, from Intel and such Intel Affiliates, the Intel Transferred Assets in consideration for the Intel Consideration on the terms and conditions set forth in this Agreement.

B. Intel, ST and the FP Parties entered into that certain Amended and Restated Master Agreement, dated March 30, 2008, that provides, among other things, for the simultaneous consummation of the transactions contemplated by this Agreement, the ST Asset Contribution Agreement, the FP Purchase Agreement and the Note Agreement, subject to the terms and conditions set forth in such agreements and the Master Agreement.

C. On the Closing Date, and subject to the Closing, Intel Singapore will purchase and accept from Holdings the Intel Notes, on the terms and conditions set forth in the Note Agreement.

D. On the Closing Date, and subject to the Closing, Intel Singapore will exercise the Intel Option, on the terms and conditions set forth therein.

E. Holdings, through one or more of its Affiliates, desires to use the proceeds from the purchase of the Intel Notes and the exercise of the Intel Option to purchase the Intel Transferred Assets on the terms and conditions set forth herein.

F. The Parties intend that, for United States federal income tax purposes, the transfer of the Intel Transferred Assets and issuance of the Intel Consideration, as contemplated by this Agreement, be treated as described on Schedule 2.6 to the Intel ATA Disclosure Letter.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the Parties hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1 Definitions. Capitalized terms used in this Agreement shall have the respective meanings ascribed to such terms in Appendix A to this Agreement.

1.2 Defined Terms Generally. The definitions set forth or referred to in Appendix A shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. All references herein to Articles, Sections and Exhibits and Schedules shall be deemed to be references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Unless the context shall otherwise require, any reference to any contract, instrument, statute, rule or regulation is a reference to it as amended and supplemented from time to time (and, in the case of a statute, rule or regulation, to any successor provision). Any reference in this Agreement to a “day” or a number of “days” (without the explicit qualification of “Business”) shall be interpreted as a reference to a calendar day or number of calendar days.

## ARTICLE II TRANSFER OF ASSETS

2.1 Intel Transferred Assets. Upon the terms and subject to the conditions of this Agreement, unless otherwise agreed by the Parties, at the Closing, Holdings (or, to the extent indicated on Schedule 2.6 of the Intel ATA Disclosure Letter, a Subsidiary of Holdings) shall acquire from the Intel Transferors, and Intel shall transfer, assign and convey to Holdings (or, to the extent indicated on Schedule 2.6 of the Intel ATA Disclosure Letter, a Subsidiary of Holdings), or cause to be transferred, assigned and conveyed by the other Intel Transferors to Holdings (or a Subsidiary of Holdings, in each case, as set forth on Schedule 2.6 of the Intel ATA Disclosure Letter), free and clear of all Liens other than Permitted Liens, all right, title and interest of the Intel Transferors in, to and under the following assets, as the same shall exist at the Effective Time, after giving effect to any changes therein pursuant to Sections 4.9 and 4.12 of the Master Agreement (subject to the ultimate paragraph hereof with respect to assets transferred, assigned and conveyed to an Intel Transferred Entity prior to the Closing) (collectively, the “Intel Transferred Assets”):

- (a) the Intel Equipment;
- (b) the Intel Transferred Purchase Orders;
- (c) the Intel Transferred Sales Orders, including any rights that Intel or any Subsidiary of Intel may have in any Post-Closing Accounts Receivable of Holdings and its Subsidiaries or the Intel Business (including those of the Intel Transferred Entities);
- (d) the Intel Transferred Real Property;
- (e) the Intel Transferred Contracts;
- (f) the Intel Prepayments;
- (g) the Intel Transferred Patents;
- (h) the Intel Transferred Trade Secrets;

- (i) the Intel Transferred Copyrights;
- (j) the Intel Transferred Trademarks;
- (k) the Intel Transferred Permits;
- (l) the Intel Books and Records;
- (m) the Intel Transferred Interests;
- (n) the Intel Transferred Inventory;
- (o) the Intel Transferred Claims;
- (p) the Intel Transferred Entity Books and Records;
- (q) the Intel Transferred Systems;
- (r) the licenses and other rights transferred by Intel to Holdings and its Subsidiaries pursuant to the Intel Intellectual Property Agreement; and
- (s) any assets or properties listed in any new schedule to the Intel ATA Disclosure Letter delivered to Holdings or any Subsidiary of Holdings pursuant to Section 4.12 of the Master Agreement;

*provided* that in no event shall the Intel Transferred Assets include any Intel Excluded Asset.

The Intel Transferred Intellectual Property shall be subject to any (i) licenses retained by Intel or its Affiliates or granted to Intel or its Affiliates pursuant to any Intel Ancillary Agreement, (ii) licenses and Contracts with use restrictions existing on the date hereof granted to or by Intel or its Subsidiaries and (iii) licenses and Contracts with use restrictions entered into by Intel or its Subsidiaries in the ordinary course of business not in violation of this Agreement prior to the Closing Date. The Intel Transferred Intellectual Property may be further obligated (either prior to the date of the Master Agreement or in the ordinary course of business between such date and the Closing Date) to be non-exclusively licensed as a result of Intel's or its Affiliate's participation in various Special Interest Groups (SIGs), Standard Definition Organizations (SDOs), and similar organizations which may impose obligations to non-exclusively license Intel Transferred Intellectual Property to third parties. To the extent that Intel is required to ensure that successors with respect to the Intel Transferred Patents assume such obligations to license, Holdings hereby assumes such obligations.

Notwithstanding the foregoing, with respect to any Intel Transferred Asset owned by an Intel Transferred Entity at the Effective Time, in lieu of transferring such Intel Transferred Asset, Intel shall transfer, assign and convey, or cause another Intel Transferor to transfer, assign and convey, free and clear of all Liens other than Permitted Liens, all of the outstanding equity interests of such Intel Transferred Entity, which interests shall be included in the Intel Transferred Interests.

2.2 Intel Excluded Assets. Holdings, Numonyx and Intel expressly understand and agree that all assets of Intel and its Subsidiaries other than the Intel Transferred Assets (collectively, the “Intel Excluded Assets”), shall be excluded from the Intel Transferred Assets, including, but not limited to:

(a) all assets, tangible or intangible, real or personal, that are not specifically identified under Section 2.1, including all of Intel’s Intellectual Property other than the Intel Transferred Intellectual Property;

(b) all Contracts that are not Intel Transferred Contracts;

(c) all Prepayments of Intel associated with Contracts that are not Intel Transferred Contracts or other obligations not assumed by Holdings or any of its Subsidiaries;

(d) all Pre-Closing Accounts Receivable of Intel and its Subsidiaries;

(e) all Cash and Cash Equivalents of Intel and its Subsidiaries;

(f) all bank accounts of Intel and its Subsidiaries, other than bank accounts of the Intel Transferred Entities;

(g) all Intel Employee Plans;

(h) all Intel Excluded Claims;

(i) all rights to or claims for refunds or credits of Taxes (including penalties) paid by Intel or any of its Subsidiaries, or any member of any consolidated, affiliated, combined or unitary group of which Intel is or has been a member, other than refunds of Taxes with respect to a Post-Closing Tax Period paid by the Intel Transferred Entities or Holdings or any of its Subsidiaries;

(j) all rights, properties, and assets which have been used in the Intel Business and which shall have been transferred (including transfers by way of sale), licensed or otherwise disposed of in the ordinary course of business (other than to Intel or any Subsidiary of Intel) prior to the Effective Time and not in violation of the terms of this Agreement or Section 4.9 of the Master Agreement;

(k) except as expressly provided in Section 2.1(q), all enterprise software, database management systems and networks of Intel or its Subsidiaries, including all sales management, engineering, materials, business planning, manufacturing, logistics, finance and accounting systems utilized by the Intel Business;

(l) the minute books, stock ledgers, accounting records, Tax Returns and others records relating to Taxes, in each case of Intel or any of its Subsidiaries (other than the Intel Transferred Entities), other than the Intel Books and Records;

- (m) internal reports relating to the business activities of Intel and its Subsidiaries that are not Intel Transferred Assets;
- (n) insurance policies and rights, claims or causes of action thereunder, including Claims which Intel or any of its Affiliates may have under any insurance contracts or policies insuring the Intel Transferred Assets;
- (o) all of the assets specifically identified on Schedule 2.2(o), of the Intel ATA Disclosure Letter; and
- (p) any asset of the Intel Transferred Entities that is not an Intel Transferred Asset.

On the Closing Date, immediately prior to the Closing, each Intel Transferred Entity holding Intel Excluded Assets shall transfer, assign and convey all of its right, title and interest in and to such Intel Excluded Assets, including any and all intercompany Accounts Receivable of such Intel Transferred Entity, to Intel or a Subsidiary of Intel designated by Intel, such that no Intel Transferred Entity shall hold any Intel Excluded Asset as of the Closing Date.

2.3 Intel Transferred Liabilities. Upon the terms and subject to the conditions of this Agreement and the Intel Ancillary Agreements, unless otherwise agreed by the Parties, effective at the Effective Time (or, with respect to Section 2.3(d), the Intel Employee Transfer Date), Holdings (or, to the extent indicated on Schedule 2.6 of the Intel ATA Disclosure Letter, a Subsidiary of Holdings) shall assume, and shall fully pay, perform, fulfill and discharge when due, the following Liabilities of Intel or its Subsidiaries, it being understood that certain of the Liabilities set forth below may be a Liability of an Intel Transferred Entity, the interests in which are transferred to Holdings (or a Subsidiary of Holdings as indicated on Schedule 2.6 to the Intel ATA Disclosure Letter) (collectively, the “Intel Transferred Liabilities”):

- (a) all Liabilities under or arising out of the Intel Transferred Contracts that are required to be paid or performed on and after the Effective Time;
- (b) all Liabilities that are expressly assumed under this Agreement;
- (c) all Liabilities to the extent accruing, arising out of, or relating to the operation and ownership of the Intel Business and the Intel Transferred Assets by Holdings and its Subsidiaries on and after the Effective Time;
- (d) all Liabilities (including any Intel Employee Agreements) that are assumed by operation of Applicable Law related to the Intel Transferred Employees;
- (e) any Taxes (x) of an Intel Transferred Entity, or arising from the Intel Transferred Assets or Intel Business, in either case allocable to a Post-Closing Tax Period, except to the extent otherwise allocated to Intel pursuant to Section 5.8 or as described in clauses (i) and (ii) of Section 6.2(g) and (y) otherwise allocated to Holdings, pursuant to Section 5.8;
- (f) the Intel Post-Closing Product Obligations; and

(g) all Intel Post-Closing Environmental Liabilities;

*provided* that in no event shall the Intel Transferred Liabilities include any Intel Excluded Liability.

Notwithstanding the foregoing, with respect to any Intel Transferred Liability owed by an Intel Transferred Entity at the Effective Time, in lieu of the assumption by Holdings or a Subsidiary of Holdings of such Intel Transferred Liability from such Intel Transferred Entity, such Intel Transferred Liability shall be retained at the Effective Time by such Intel Transferred Entity, and Holdings or a Subsidiary of Holdings shall, or shall cause such Intel Transferred Entity, or successor thereto, to pay or otherwise satisfy and discharge such Intel Transferred Liability on a timely basis after the Effective Time.

2.4 Intel Excluded Liabilities. Except for those Liabilities expressly assumed by Holdings or a Subsidiary of Holdings pursuant to Section 2.3 and Section 5.8, neither Holdings nor any Subsidiary of Holdings shall assume, nor shall it be liable for, and Intel shall retain and remain, as between Intel, on the one hand, and Holdings and its Subsidiaries, on the other hand, solely liable for and obligated to discharge, all of the debts, expenses, contracts, agreements, commitments, obligations and other Liabilities of any nature of Intel or any of its Subsidiaries (collectively, the “Intel Excluded Liabilities”), including the following:

(a) any Liability for breaches by Intel or its Subsidiaries prior to the Effective Time of any Contract or any Liability for payments or amounts due under any Contract prior to the Effective Time;

(b) any Liability for Taxes attributable to or imposed upon Intel or any of its Subsidiaries, or attributable to or imposed upon the Intel Business, the Intel Transferred Entities or the Intel Transferred Assets for any Pre-Closing Tax Period other than any Liability for Taxes allocated to Holdings or a Subsidiary of Holdings pursuant to Section 5.8 and any Liability for Taxes otherwise allocated to Intel pursuant to Section 5.8;

(c) all Pre-Closing Accounts Payable of Intel and its Subsidiaries;

(d) any and all Liabilities under Intel Employee Plans and Intel Employee Agreements, including any Liabilities arising in connection with any change-in-control or similar compensatory payment arrangement which is triggered in whole or in part by the transactions contemplated by this Agreement and the other Transaction Documents, including any retention bonus, stay bonus or similar payment (other than the Intel Transferred Employee Payment Liabilities, the Intel Funded Employee Plan Amounts, or those Liabilities assumed by Holdings or a Subsidiary of Holdings pursuant to Section 5.11(c));

(e) any Liabilities or obligations with respect to the Intel Business Employees including the Intel Transferred Employees that arise prior to Intel Employee Liability Date (other than the Intel Transferred Employee Payment Liabilities, the Intel Funded Employee Plan Amounts, or those Liabilities assumed by Holdings or a Subsidiary of Holdings pursuant to Section 5.11(c));

- (f) except as otherwise set forth in the Intel Secondment Agreement, any Liabilities or obligations with respect to any Intel Business Employees who do not become Intel Transferred Employees and any Liabilities of the Intel Transferred Entities with respect to any employee who does not become an Intel Transferred Employee;
- (g) any Liability for or in respect of any Indebtedness, other than the Contemplated Financing and the Contributor Financing;
- (h) any Liability to the extent arising out of the Intel Excluded Assets;
- (i) the Intel Pre-Closing Product Obligations;
- (j) any Liability of the Intel Transferred Entities that is not an Intel Transferred Liability;
- (k) any Intel Pre-Closing Environmental Liabilities; and
- (l) any Liability of Intel or any of its Subsidiaries that is the subject of any existing Proceedings as of the Closing Date, including the Proceedings set forth in Schedule 3.7 and the claims against Intel or its Subsidiaries set forth in Schedule 3.11 to the Intel ATA Disclosure Letter, in each case, to the extent arising or accruing prior to the Effective Time, but in any event not including any Liability to the extent arising or accruing after the Effective Time.

On the Closing Date, immediately prior to the Closing, Intel, or a Subsidiary of Intel designated by Intel and reasonably acceptable to Holdings shall assume, and shall thereafter pay, perform, fulfill and discharge when due any Intel Excluded Liability of each Intel Transferred Entity, including any and all Indebtedness of, and intercompany Accounts Payable to, Intel and its Subsidiaries, pursuant to assumption of liability agreements in a form to be mutually agreed between Intel and Holdings (each, an “Intel Entity Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreement”).

#### 2.5 Assignment of Contracts and Rights; Delivery of Intel Equipment.

##### (a) Assignment of Contracts and Rights.

(i) Anything in this Agreement or any other Transaction Document to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any Intel Transferred Contract, Intel Transferred Permit, or other Intel Transferred Asset, or any claim, right or benefit arising thereunder or resulting therefrom if an attempted assignment thereof, without the consent of a party thereto or the receipt of any Governmental Approvals or the satisfaction of any other requirement applicable to such assignment, would constitute a breach or other contravention thereof or in any way result in the loss of any material benefit under, or any material modification to, the rights of Holdings, any of Holdings’ Subsidiaries, Intel or any of Intel’s Subsidiaries thereunder. Intel and Holdings will use commercially reasonable efforts (but without any payment of money by Intel) to obtain the consent of the other parties to any such Intel Transferred Contract, Intel Transferred Permit or other Intel Transferred Asset or any claim, right or



benefit arising thereunder for the assignment thereof to Holdings or a Subsidiary of Holdings as Holdings may reasonably request; *provided, however*, that except as provided in Section 2.5 of the Intel Intellectual Property Agreement with respect to the sublicensing of certain Third Party Claims to Holdings, Intel shall have no obligation to transfer or assign any license of any Intellectual Property other than the Intel Transferred Intellectual Property or any licenses granted by Intel in connection with the sale, distribution and license of the Intel Products in the ordinary course of business that are not Intel Transferred Contracts. Subject to the obligations of Intel set forth in Section 5.6, Section 4.3 of the Master Agreement, Section 2.6 of the Intel Intellectual Property Agreement, the Intel Transition Services Agreement, the Intel Supply Agreement and the Intel Pudong Services Agreement, Holdings and Numonyx agree that Intel shall not have any liability to Holdings or any of its Subsidiaries arising out of or relating to the failure to obtain any such consent or to satisfy any other such requirement that may be required in connection with the transactions contemplated by this Agreement or the Intel Ancillary Agreements or because of any circumstances resulting from any such failure; *provided, however*, that nothing in this Section 2.5(a) is intended to affect Intel's representation in Section 3.8(b) regarding Intel Contractual Consents.

(ii) If any such consent is not obtained, or any such other requirement is not satisfied, prior to the Closing and as a result thereof Holdings and its Subsidiaries shall be prevented by such third party from receiving the rights and benefits with respect to such Intel Transferred Contract, Intel Transferred Permit or other Intel Transferred Asset intended to be transferred hereunder, or if any attempted assignment intended to be effected hereunder, at such time as such Intel Transferred Contract, Intel Transferred Permit or other Intel Transferred Asset is intended to be transferred pursuant to the Transactions Documents, whether at Closing or otherwise, would adversely affect the rights of Intel or any of its Subsidiaries thereunder so that Holdings or a Subsidiary of Holdings would not in fact receive all such rights or Intel or any of its Subsidiaries would forfeit or otherwise lose the benefit of rights that Intel or any such Subsidiary is entitled to retain, Intel and Holdings shall cooperate to discuss, determine and implement in good faith a mutually agreeable reasonable arrangement to the extent practicable, under which (A) Holdings or a Subsidiary of Holdings would obtain the economic claims, rights and benefits under such asset and assume the economic burdens and obligations with respect thereto in accordance with this Agreement, including potentially by subcontracting, sublicensing or subleasing to Holdings or a Subsidiary of Holdings (but not more extensive than the existing rights of Intel and its Subsidiaries with respect to the Intel Business), or (B) Intel would enforce for the benefit of Holdings and its Subsidiaries, with Holdings or a Subsidiary of Holdings assuming Intel's obligations, any and all rights of Intel and its Subsidiaries against a third party thereto; *provided*, that Holdings shall or shall cause its Subsidiaries to reimburse Intel for all reasonable out-of-pocket expenses that are imposed on Intel and any of its Subsidiaries in bearing such economic burdens and obligations that otherwise would have been borne by Holdings or a Subsidiary of Holdings if the applicable asset had been transferred to Holdings or a Subsidiary of Holdings at the Effective Time. Holdings and Numonyx agree that neither Intel nor any of its Subsidiaries shall have any liability to Holdings or any Subsidiary of Holdings arising out of or relating to the failure to obtain any such consent, and no condition set forth in the Master Agreement, other than the conditions set forth in Section 5.1(f) and

Section 5.2(f) shall be deemed not satisfied, as a result of (x) the failure to obtain any such consent or any circumstances resulting therefrom or (y) any suit, action or proceeding commenced or threatened by or on behalf of any Person arising out of or relating to the failure to obtain any such consent or any circumstances resulting therefrom; *provided, however*, that nothing in this Section 2.5(b) is intended to affect Intel's representation in Section 3.8(b) regarding Intel Contractual Consents.

(iii) No other rights are granted hereunder, by implication, estoppel, statute or otherwise, except as expressly provided in this Agreement or in any other Transaction Document.

(b) Delivery of Intel Equipment.

(i) At the time that physical possession of Intel Equipment is delivered to Holdings or one of its Subsidiaries, or promptly thereafter, whether at Closing or otherwise, Intel shall deliver to Holdings a certificate of delivery that identifies the Intel Equipment to which Intel or one of its Subsidiaries is delivering physical possession (a "Delivery Certificate").

(ii) The Delivery Certificate shall be binding on Holdings and its Subsidiaries and the Intel Equipment shall be deemed to have been physically delivered and accepted by Holdings and its Subsidiaries unless Holdings presents to Intel a written notice of disagreement which specifies, in reasonable detail, any Intel Equipment not so delivered, within 10 Business Days after the date that the relevant Delivery Certificate has been delivered.

(iii) During the 30-day period following the delivery of a notice of disagreement with the Delivery Certificate, Intel and Holdings shall seek in good faith to resolve in writing any differences which they may have with respect to the delivery of Intel Equipment.

2.6 Consideration The consideration payable at the Closing by Holdings and its Affiliates to Intel and the other Intel Transferors for the Intel Transferred Assets shall consist of:

(a) 101,427,831 Ordinary Shares of Holdings, reduced by the number of Intel Option Shares (the "Intel Holdings Shares"). For purposes of clarification, if Intel Singapore exercised the Intel Option in full, pursuant to the terms therein, the number of Intel Holdings Shares issued hereunder in exchange for Intel Transferred Assets shall be zero;

(b) the consideration paid by Intel Singapore for Ordinary Shares pursuant to the Intel Option (the "Intel Option Exercise Cash"), and (ii) the amount of the consideration paid by Intel Singapore to purchase the Intel Notes pursuant to the Note Agreement (the "Intel Note Purchase Cash"), and such amount, together with the Intel Option Exercise Cash, the "Intel Aggregate Cash";

(c) the assumption by Holdings and certain of its Subsidiaries of the Intel Transferred Liabilities being assumed by Holdings and such Subsidiaries (together with

the Intel Holdings Shares (if any) and the Intel Aggregate Cash, the “Intel Consideration”).

The Intel Consideration shall be allocated among Intel and the other Intel Transferors as described in Schedule 2.6 of the Intel ATA Disclosure Letter (as such allocation shall be determined pursuant to Section 4.13 of the Master Agreement and delivered by Intel to Holdings within 30 days following the Closing Date), and shall be treated as having been paid by Holdings on behalf of certain of its Subsidiaries also as provided in Schedule 2.6 of the Intel ATA Disclosure Letter, which Schedule 2.6 shall be prepared in a manner consistent with the Third Party Appraisal. Each of the Parties hereto agrees to report the transactions contemplated hereby for U.S. federal, state and foreign Tax purposes in accordance with such allocation of the Intel Consideration and as set forth on such schedule. Intel shall prepare Schedule 2.6 of the Intel ATA Disclosure Letter subject to Holdings’ approval, which approval shall not be unreasonably withheld.

#### 2.7 Minimum Inventory.

(a) Promptly after the Closing Date, Intel will prepare and present to Holdings a statement in reasonable detail of the Intel Inventory Value as of the end of Intel’s first fiscal quarter of 2007 and as of the Effective Time (the “Preliminary Intel Inventory Statement”). The Preliminary Intel Inventory Statement shall be delivered to Holdings no later than 90 days after the Closing Date.

(b) Holdings and its accountants shall have the right to review the work papers of Intel and its accountants utilized in preparing the Preliminary Intel Inventory Statement and shall have full access to the books, records, properties and personnel of Intel for purposes of verifying the accuracy and fairness of the presentation of the Intel Inventory Value in the Preliminary Intel Inventory Statement. The Preliminary Intel Inventory Statement shall be binding on Holdings and its Subsidiaries, unless Holdings presents to Intel written notice of disagreement with the Preliminary Intel Inventory Statement (“Intel Notice of Disagreement”) within 150 days after the Closing Date specifying in reasonable detail the nature and extent of the disagreement.

(c) During the 30-day period following the delivery of an Intel Notice of Disagreement, Intel and Holdings shall seek in good faith to resolve in writing any differences which they may have with respect to any amount specified in the Intel Notice of Disagreement. If Holdings and Intel are unable to resolve any such disagreement within 30 days after Intel receives the Intel Notice of Disagreement, the disagreement shall be referred for final determination to Deloitte & Touche USA LLP or if Deloitte & Touche USA LLP is unable or unwilling to make such final determination, to such other independent accounting firm as the parties shall mutually designate. The accounting firm so designated to make the final determination is hereinafter referred to as the “Independent Accountants.”

(d) Intel Inventory Value as of the end of Intel’s first fiscal quarter of 2007 and as of the Effective Time shall be deemed to have been finally determined upon the first to occur of (i) acceptance of the Preliminary Intel Inventory Statement, (ii) Holdings’

failure to object thereto within 150 days after the Closing Date, (iii) resolution by mutual agreement of the parties after timely delivery of the Intel Notice of Disagreement or (iv) notification by the Independent Accountants of their final determination thereof.

(e) If the Intel Inventory Value as of the Effective Time, as finally determined, is less than the Minimum Committed Intel Inventory Value, Intel shall or shall cause one of its Subsidiaries, as appropriate, to make a payment equal to such difference by the Intel Transferor responsible for such reduction, as determined by Intel, to Holdings or one of its Subsidiaries within 10 days after such final determination. If the Intel Inventory Value as of the Effective Time, as finally determined, is equal to or greater than the Minimum Committed Intel Inventory Value, there shall be no such payment by Intel to Holdings or one of its Subsidiaries.

(f) The fees and disbursements of the accountants of Holdings and its Subsidiaries shall be paid by Holdings or one of its Subsidiaries, as appropriate. The fees and disbursements of Intel's accountants shall be paid by Intel. The fees and disbursements of the Independent Accountants shall be paid based on a ratable allocation made as a part of its determination, based on the proportion by which the amount in dispute was determined in favor of Holdings or its relevant Subsidiary, or Intel.

#### 2.8 Intel Transferred Employee Liabilities.

(a) Promptly after the Closing Date, Intel shall prepare a statement (the "Intel Preliminary Closing Statement") setting forth the Intel Transferred Employee Payment Liabilities as of the Intel Employee Transfer Date and the Intel Transferred Employee Payment Liabilities that accrued prior to the Intel Employee Liability Date, and containing reasonably detailed supporting information, documents and calculations. Intel shall use commercially reasonable efforts to cause such preparation and review to be completed and the Preliminary Closing Statement to be delivered to Holdings and Numonyx within 210 days after the Closing Date. The Preliminary Closing Statement shall be prepared by Intel from the books and records of Intel consistent with past practice and the Intel Financial Information and in accordance with GAAP.

(b) Holdings and its accountants shall have the right to review the work papers of Intel and its accountants utilized in preparing the Intel Preliminary Closing Statement and shall have full access to the books, records, properties and personnel of Intel and its Subsidiaries for purposes of verifying the accuracy and fairness of the presentation of the information in the Intel Preliminary Closing Statement. The Intel Preliminary Closing Statement shall be binding on Holdings and its Subsidiaries, unless Holdings delivers to Intel written notice of disagreement with any Intel Transferred Employee Payment Liabilities set forth therein ("Notice of Disagreement") within 30 days following the delivery of the Intel Preliminary Closing Statement, specifying in reasonable detail the nature and extent of the disagreement, in which case the Intel Preliminary Closing Statement shall be binding on Holdings and its Subsidiaries only in respect of the Intel Transferred Employee Payment Liabilities set forth therein which are not the subject of a Notice of Disagreement.

(c) During the 30-day period following the delivery of a Notice of Disagreement, Intel and Holdings shall seek in good faith to resolve in writing any differences which they may have with respect to any Intel Transferred Employee Payment Liabilities specified in the Notice of Disagreement. If Holdings and Intel are unable to resolve any such disagreement within 30 days after Intel receives a Notice of Disagreement, the disagreement shall be referred for final determination to Deloitte & Touche USA LLP or if Deloitte & Touche USA LLP is unable or unwilling to make such final determination, to such other independent accounting firm as the parties shall mutually designate. The accounting firm so designated to make the final determination is hereinafter referred to in this Section 2.8 as the “Intel Cash Independent Accountants.”

(d) The Intel Transferred Employee Payment Liabilities shall be deemed to have been finally determined upon the first to occur of (i) Holdings’ failure to deliver to Intel a Notice of Disagreement with respect to such Intel Transferred Employee Payment Liabilities 270 days after the Closing Date, (ii) resolution by mutual agreement of the parties after timely delivery of a Notice of Disagreement or (iii) notification by the Intel Cash Independent Accountants of their final determination thereof. Within ten days after the date on which all of the Intel Transferred Employee Payment Liabilities (as they may be revised pursuant to this Section 2.8) shall have become final and binding (the “Final Payment Date”), Intel shall pay Holdings or a Subsidiary of Holdings, as appropriate, an amount equal to the Intel Transferred Employee Payment Liabilities that accrued prior to the Intel Employee Liability Date.

#### 2.9 Capital Expenditures.

(a) Within 90 days after the Closing Date, Intel shall deliver to Holdings a schedule setting forth in reasonable detail the amount of all capital expenditures made by Intel in accordance with the Intel Business Capital Expenditures Plan between April 1, 2007 and the Closing Date (or for such period otherwise provided, the “Actual Intel Capital Expenditures”). For purposes hereof, “Planned Intel Capital Expenditures” means (i) the planned amount of capital expenditures set forth in the Intel Business Capital Expenditures Plan for each fiscal quarter completed during the period from April 1, 2007 through the end of the last full fiscal quarter ending prior to the Closing Date (or for such period otherwise provided) plus (ii) a prorated amount equal to the planned amount of capital expenditures set forth in the Intel Business Capital Expenditures Plan for the fiscal month in which the Closing Date occurs multiplied by a fraction the numerator of which is the number of days elapsed in such fiscal month through the Closing Date and the denominator of which is the total number of days in such fiscal month. In the event that the Closing shall not have occurred on or before the expiration of the then current Intel Business Capital Expenditures Plan, the Parties will agree in good faith on the modification of such Intel Business Capital Expenditures Plan to add additional planned amounts of capital expenditures for the following fiscal quarter or quarters. Holdings shall have full access to the Intel Books and Records, for purposes of verifying the accuracy and fairness of the schedule of Actual Intel Capital Expenditures delivered by Intel to Holdings hereunder.

(b) The schedule of Actual Intel Capital Expenditures shall be binding on Holdings and its Subsidiaries, unless Holdings presents to Intel written notice of disagreement with the schedule of Actual Intel Capital Expenditures ("Intel Cap Ex Notice of Disagreement") within 150 days after the Closing Date specifying in reasonable detail the nature and extent of the disagreement.

(c) During the 30-day period following the delivery of an Intel Cap Ex Notice of Disagreement, Intel and Holdings shall seek in good faith to resolve in writing any differences which they may have with respect to any amount specified in the Intel Cap Ex Notice of Disagreement. If Holdings and Intel are unable to resolve any such disagreement within 30 days after Intel receives the Intel Cap Ex Notice of Disagreement, the disagreement shall be referred for final determination to Deloitte & Touche USA LLP or if Deloitte & Touche USA LLP is unable or unwilling to make such final determination, to such other independent accounting firm as the parties shall mutually designate. The accounting firm so designated to make the final determination is hereinafter referred to as the "Cap Ex Independent Accountants."

(d) Actual Intel Capital Expenditures as of the Effective Time shall be deemed to have been finally determined upon the first to occur of (i) acceptance of the schedule of Actual Intel Capital Expenditures, (ii) Holdings' failure to object thereto within 150 days after the Closing Date, (iii) resolution by mutual agreement of the parties after timely delivery of the Intel Cap Ex Notice of Disagreement or (iv) notification by the Cap Ex Independent Accountants of their final determination thereof.

(e) Within 10 days after the final determination of such amount, determined in accordance with Section 2.9(d) above, in the event the Actual Intel Capital Expenditures are less than the Planned Intel Capital Expenditures for the period from April 1, 2007 through the Closing Date, Intel shall pay the amount of any such difference to Holdings or a Subsidiary of Holdings, as appropriate.

(f) The fees and disbursements of the accountants of Holdings shall be paid by Holdings. The fees and disbursements of Intel's accountants shall be paid by Intel. The fees and disbursements of the Cap Ex Independent Accountants shall be paid based on a ratable allocation made as a part of its determination, based on the proportion by which the amount in dispute was determined in favor of Holdings or Intel.

2.10 Deliveries by Holdings. Holdings shall, on or before the Closing, execute and deliver or cause to be delivered to the Dutch civil law notary ("civil law notary"), who shall execute and deliver the notarial deed of issue in respect of the Intel Holdings Shares (with a copy to Intel):

(a) a certificate issued by a registered accountant as referred to in Section 2:204b Dutch Civil Code relating to the value of the Intel Transferred Assets to be contributed to Holdings against the issuance of the Intel Holdings Shares;

(b) a true and complete copy of the resolutions duly and validly adopted by the Managing Director, the Supervisory Board and the shareholders of Holdings

evidencing their authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby including the issuance of the Intel Holdings Shares;

(c) a duly executed power of attorney by Holdings with respect to the execution of the notarial deed of issue of shares in respect of the Intel Holdings Shares; and

(d) a certificate of the Managing Director certifying the names and signatures of the Persons authorized to sign this Agreement and the other documents to be delivered hereunder.

2.11 Deliveries by Intel. Prior to the Closing, Intel shall deliver to the civil law notary executing the deed of issue in respect of the Intel Holdings Shares, a duly executed power of attorney by Intel with respect to the execution of the notarial deed of issue in respect of the Intel Holdings Shares, which power of attorney shall be legalized and affixed with an apostille and shall be accompanied by a legal opinion certifying that the signatory or signatories of the power has or have the authority to represent Intel with respect to the matters to which the power pertains.

2.12 Closing. At the Closing:

(a) The Intel Transferors shall deliver to Holdings and its Affiliates the Intel Entity Bills of Sale and, Intel, through its officers, agents and employees, will, except as set forth on Schedule 2.12(a), put Holdings and its Affiliates, as applicable, in possession of all tangible Intel Transferred Assets at the facilities where they are located as of the Effective Time (other than such Intel Transferred Assets that are already owned by Intel Transferred Entities);

(b) Intel and its Affiliates and Holdings and its Subsidiaries, as applicable, each shall execute and deliver each of the Intel Ancillary Agreements to which it is a party and shall make any deliveries required thereunder;

(c) on behalf of itself and its Affiliates, Holdings shall remit or shall cause a Subsidiary of Holdings to remit to Intel for Intel's account and/or for the account of the applicable Affiliate of Intel the Intel Aggregate Cash by wire transfer of immediately available funds to one or more bank accounts designated in writing by Intel prior to the Closing;

(d) Holdings shall instruct the civil law notary to execute the notarial deed of issue in respect of the Intel Holdings Shares and, upon the execution of such deed (i) register or cause to be registered the issue of the Intel Holdings Shares in the share register of Holdings and (ii) deliver a copy of the deed of issue in respect of the Intel Holdings Shares and the registration of such issuance in the share register of Holdings to Intel or one of its Affiliates;

(e) Intel shall deliver a delivery protocol relating to the manner for delivery of any intangible property that is an Intel Transferred Asset, in the form attached as Schedule 2.12(e) to the Intel ATA Disclosure Letter;

(f) Intel shall deliver, or cause to be delivered, share transfer deeds and all other certificates or instruments representing the Intel Transferred Interests duly endorsed and accompanied by necessary documentation for transfer;

(g) Intel shall furnish Numonyx with the following documents regarding the Intel Transferred Entities:

(i) the charter documents of each Intel Transferred Entity and all amendments thereto, duly certified by the proper officials of the jurisdiction of organization of each such Intel Transferred Entity for such charter documents that are filed with a Governmental Authority in the jurisdiction of organization;

(ii) resignations, effective on the Closing Date, of the officers and directors of each Intel Transferred Entity, unless otherwise specified by Holdings prior to the Closing Date; and

(iii) the complete and correct operating agreements, corporate minute books and reports filed with Governmental Authorities as required by Applicable Law (including registration of stock transfers) of the Intel Transferred Entities.

2.13 Post Closing Registrations and Confirmations. Within eight days after the Closing, Holdings shall (a) file with the Commercial Register the certificate issued by the registered accountant as referred to in Section 2.10(a), above and (b) register with the Commercial Register the increase in its capital.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF INTEL**

Subject to the exceptions that are disclosed in the Intel ATA Disclosure Letter, Intel hereby makes the following representations and warranties to Holdings and Numonyx. Such representations and warranties are made to Holdings and Numonyx as if made and effective (a) on May 22, 2007 (except that with respect to any representation and warranty that specifies another date, such representation and warranty shall be made as of such specified date) and (b) as of the date hereof (except that with respect to any representation and warranty that specifies another date, such representation and warranty shall be made as of such specified date), as follows:

3.1 Existence and Good Standing. Each of the Intel Transferors is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization (to the extent such concept is recognized in such jurisdiction) and has all requisite power and authority required to carry on its business as now conducted and to own and operate the Intel Business as now owned and operated by it. Each of the Intel Transferors is qualified to conduct business and is in good standing in each jurisdiction in which it conducts the Intel Business (to the extent such



concept is recognized in such jurisdiction) other than such jurisdictions where the failure to be so qualified would not reasonably be expected to have an Intel Material Adverse Effect.

3.2 Authorization and Enforceability. Each of the Intel Transferors has all requisite power and authority to execute and deliver each of the Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Intel Transferor of each of the Transaction Documents to which it is a party, and the performance by each Intel Transferor of its obligations contemplated hereby and thereby, have been duly and validly authorized by all necessary corporate action. The Transaction Documents have been duly and validly executed and delivered by the Intel Transferor which is a party thereto and, assuming the due execution and delivery of this Agreement and the other Transaction Documents to which it is a party by Holdings (or a Subsidiary of Holdings) and the other parties thereto, this Agreement constitutes, and each of the Transaction Documents to which an Intel Transferor is a party constitutes, the legal, valid and binding agreement of such Intel Transferor, enforceable against such Intel Transferor in accordance with their respective terms, except to the extent (a) that their enforceability may be subject to any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or to general principles of equity or (b) indemnification provisions contained in the Securityholders' Agreement may be limited by applicable securities laws.

3.3 Governmental Authorization. Other than the Intel Approvals, Numonyx Approvals and ST Approvals, the execution, delivery and performance by each Intel Transferor of the Transaction Document(s) to which it is a party, and the consummation by it of the transactions contemplated thereby, require no Governmental Approval.

3.4 Non-Contravention.

(a) The execution, delivery and performance by the Intel Transferors of the Transaction Documents to which it is a party, and the consummation of the transactions contemplated thereby, do not and will not: (i) contravene or conflict with the certificate of incorporation, bylaws, articles of association or other corporate organizational or governing documents of any Intel Transferor or any Intel Transferred Entity; (ii) assuming receipt of the Intel Approvals, contravene or conflict with or constitute a material violation of any provision of any Applicable Law binding upon or applicable to any Intel Transferor, the Intel Transferred Assets or the Intel Transferred Entities; or (iii) assuming receipt of the Intel Approvals, the ST Approvals, the Numonyx Approvals and of the Intel Contractual Consents, (A) constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any benefit under any Intel Contract, including the Intel Transferred Contracts or (B) result in the creation or imposition of any Lien (other than Permitted Liens) on any Intel Transferred Asset, or (C) constitute a breach, default or violation of any settlement agreement, judgment, injunction or decree, except in the case of clause (ii) or (iii), for matters that would not reasonably be expected to have an Intel Material Adverse Effect (*provided that in determining whether an Intel Material Adverse Effect would result, any adverse effect otherwise excluded by clause (C) of the definition of "Intel Material Adverse Effect" shall be taken into account*).

(b) The execution, delivery and performance by Intel of this Agreement and the other Transaction Documents to which Intel is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not, as of the Closing Date, constitute a default under, give rise to any right of termination, cancellation, modification, acceleration of, or a loss of any material benefit under any Contract identified on Schedule 3.4(b) of the Intel ATA Disclosure Letter; *provided, however*, that for the avoidance of doubt, the Parties acknowledge and agree that the representations and warranties set forth in this Section 3.4(b) shall not be deemed to be untrue or inaccurate in any respect as a result of (i) any action or omission by Holdings or a Subsidiary of Holdings that constitutes or results in a default by Intel or any Intel Affiliate or gives rise to any right of termination, cancellation, modification, acceleration of, or a loss of any material benefit under any such Contract; and (ii) any withdrawal or voiding after the Closing of any consent granted prior to the Closing by a party to such Contract, which withdrawal or voiding purports to have retroactive effect to the Closing.

3.5 Personal Property. The Intel Transferors and Intel Transferred Entities together have good and marketable title to, or a valid and subsisting leasehold interest in, all of the tangible personal property that is an Intel Transferred Asset free and clear of any Lien, except for (a) Permitted Liens and (b) any restriction contemplated by this Agreement or any of the other Transaction Documents.

3.6 Real Property.

(a) Schedule 3.6(a) of the Intel ATA Disclosure Letter lists (i) the street address of the Intel Transferred Owned Real Property and (ii) the current owner of such Intel Transferred Owned Real Property. Intel or one of its Subsidiaries has good and marketable fee title to the Intel Transferred Owned Real Property, free and clear of all Liens, other than Permitted Liens.

(b) Schedule 3.6(b) of the Intel ATA Disclosure Letter lists (i) the street address of the Intel Transferred Leased Real Property and (ii) the identity of the lessor, the lessee and the current occupant (if different from the lessee) of each such parcel of Intel Transferred Leased Real Property. Intel or one of its Subsidiaries has a valid leasehold estate in all Intel Transferred Leased Real Property, free and clear of all Liens, other than Permitted Liens. Each of the Intel Leases (i) is valid and binding on the Intel Transferor or Intel Transferred Entity which is party thereto and, to the Knowledge of Intel, on the counterparties thereto, and is in full force and effect and (ii) upon consummation of the transactions contemplated by this Agreement and the Intel Ancillary Agreements, except to the extent that any Intel Contractual Consents are not obtained, shall continue in full force and effect without penalty or other adverse consequence. No Intel Transferor, nor any Intel Transferred Entity, is in breach of, or default under, any Intel Lease to which it is a party, except for such breaches or defaults that would not reasonably be expected to have an Intel Material Adverse Effect. Except as would not reasonably be expected to have an Intel Material Adverse Effect, to the Knowledge of Intel, no other party to any Intel Lease is in breach thereof or default thereunder and neither Intel nor any of its Subsidiaries has received any notice of termination, cancellation, breach or default under any Intel Lease.

3.7 Litigation. There is no Proceeding or to the Knowledge of Intel, investigation pending or, to the Knowledge of Intel, threatened in writing, by or against Intel or any of its Subsidiaries relating to the Intel Business or any Intel Transferred Asset (a) seeking to prevent, enjoin, alter or delay the transactions contemplated by this Agreement or any other Transaction Document or to materially encumber any Intel Transferred Asset, or (b) that would otherwise reasonably be expected to have an Intel Material Adverse Effect. There is no Proceeding pending or, to the Knowledge of Intel, threatened by or against any Intel Transferred Entity, except as would not reasonably be expected to have an Intel Material Adverse Effect.

3.8 Intel Transferred Contracts and Consents.

(a) Except as would not reasonably be expected to have an Intel Material Adverse Effect, each Intel Transferred Contract (i) is valid and binding on the Intel Transferor or the Intel Transferred Entity which is party thereto and, to the Knowledge of Intel, the counterparties thereto, and is in full force and effect and (ii) upon consummation of the transactions contemplated by this Agreement, except to the extent that any Intel Contractual Consents are not obtained, shall continue in full force and effect without penalty or other adverse consequence. No Intel Transferor, nor any Intel Transferred Entity is in breach of, or default under, any Intel Transferred Contract to which it is a party, except for such breaches or defaults that would not reasonably be expected to have an Intel Material Adverse Effect. Except as would not reasonably be expected to have an Intel Material Adverse Effect, to the Knowledge of Intel, no other party to any Intel Transferred Contract is in breach thereof or default thereunder and neither Intel, nor any of its Subsidiaries, has received any notice of termination, cancellation, breach or default under any Intel Transferred Contract.

(b) Schedule 3.8(b) of the Intel ATA Disclosure Letter lists each material Intel Transferred Contract that requires the consent of the other party or parties thereto to be obtained by Intel or one of its Subsidiaries in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby to avoid the loss of any material benefit under, or any material modification to, such Intel Transferred Contract (the "Intel Contractual Consents").

3.9 Compliance with Applicable Laws.

(a) Intel and its Subsidiaries have complied with any Applicable Laws relating to the Intel Business or the operation and use of the Intel Transferred Assets (including, in the case of the Intel Transferred Entities, Applicable Laws relating to their business operations and employees) and the Intel Transferred Interests, except where the failure to comply would not reasonably be expected to have an Intel Material Adverse Effect. To the Knowledge of Intel, no Intel Transferor is subject to any order, writ, injunction or decree of any Governmental Authority directly relating to the Intel Transferred Assets. To the Knowledge of Intel, no Intel Transferred Entity is subject to any material order, writ, injunction or decree of any Governmental Authority.

(b) Intel and its Subsidiaries are in possession of all Permits, except where the failure to have, or the suspension or cancellation of, any of the Permits would not

reasonably be expected to have an Intel Material Adverse Effect. Intel and its Subsidiaries are in compliance with all Permits and no suspension or cancellation of any of the Permits is pending or, to the Knowledge of Intel, threatened in writing, except, in each case, where the failure to so comply, or the suspension or cancellation of, any of the Permits would not reasonably be expected to have an Intel Material Adverse Effect. Except as would not reasonably be expected to have an Intel Material Adverse Effect, (i) none of the Intel Transferred Permits will, assuming the related Intel Approvals and Numonyx Approvals have been obtained prior to the Closing Date, be terminated or impaired or become terminable, in whole or in part, as a result of the transactions contemplated hereby and by the Intel Ancillary Agreements and (ii) upon consummation of such transactions, or at such other time as agreed by the Parties, Holdings or its Subsidiaries will, assuming the related Intel Approvals and Numonyx Approvals have been obtained prior to the Closing Date, have all of the right, title and interest in all of the Intel Transferred Permits.

(c) Except as would not reasonably be expected to have an Intel Material Adverse Effect, the Intel Transferred Permits constitute all material Governmental Approvals necessary for the ownership, lease or use of the Intel Transferred Assets and the operation of the Intel Business after the Closing Date.

### 3.10 Tax Matters.

(a) Intel has paid or caused to be paid all material Taxes relating to the Intel Transferred Assets and Intel Business allocable (as provided in Section 5.8(b)(iii)) to the Pre-Closing Tax Period that could become a liability of Holdings or its Subsidiaries by reason of the transfer of the Intel Transferred Assets to Holdings or its Subsidiaries as described herein or that would reasonably be expected to result in a Lien on any Intel Transferred Assets, other than non-delinquent Taxes incurred in the ordinary course of business since the Intel Financial Information Date in amounts consistent with prior periods (as adjusted for changes in Tax rates and ordinary course fluctuations in operating results). None of the Intel Transferors has an actual or contingent liability for Taxes that will become a liability of Holdings or its Subsidiaries by reason of the transactions described herein, other than such non-delinquent Taxes described in the immediately preceding sentence for which Holdings or its Subsidiaries may become liable by reason of statutory successor liability (or similar liability) under Applicable Law.

(b) No Governmental Authority has claimed that the Intel Transferred Assets are subject to Tax in a jurisdiction in which the required Tax Returns have not been filed by the Intel Transferors.

(c) No material issues have been raised in writing in any audits, examinations or disputes pertaining to Taxes arising from the Intel Transferred Assets that can reasonably be expected to be raised in similar examinations of Holdings or its Subsidiaries following the Closing.

(d) With respect to each of the Intel Transferred Entities:

(i) Each Intel Transferred Entity has properly prepared and timely filed all Tax Returns required by law and has timely paid all Taxes due and payable (whether or not shown on any Tax Return). All such Tax Returns are true, correct and complete in all material respects. Each Intel Transferred Entity has complied in all material respects with all Applicable Laws relating to Taxes. None of the Intel Transferred Entities (A) is a party to or bound by any closing agreement, offer in compromise, gain recognition agreement or any other agreement with any Governmental Authority, except for those agreements identified on Schedule 3.10(e) of the Intel ATA Disclosure Letter, or any Tax indemnity or Tax sharing agreement with any Person, and (B) has actual or contingent liabilities for Taxes, other than (x) Taxes accrued as a liability in the Intel Financial Information, or (y) non-delinquent Taxes incurred in the ordinary course of business since the Intel Financial Information Date in amounts consistent with prior periods (if applicable), as adjusted for changes in Tax rates and ordinary course fluctuations in operating results.

(ii) There are and have been no (A) proposed, threatened or actual assessments, audits, examinations or disputes as to Taxes relating to the Intel Transferred Entities, (B) accounting method adjustments with respect to the Intel Transferred Entities, or (C) waivers or extensions of the statute of limitations with respect to Taxes for which the Intel Transferred Entities would reasonably be expected to be held liable following the date hereof. No issues have been raised in any audits, examinations or disputes pertaining to the Intel Transferred Entities that can reasonably be expected to be raised in similar examinations following the Closing. To the Knowledge of Intel, there is no basis for the assertion by a taxing authority of a material Tax deficiency against the Intel Transferred Entities. None of the Intel Transferred Entities is liable for Taxes of any other Person.

(iii) Schedule 3.10(d)(iii) of the Intel ATA Disclosure Letter sets forth, on an entity-by-entity basis, all jurisdictions in which each of the Intel Transferred Entities is subject to Tax and the type(s) of Tax. No Intel Transferred Entity has engaged (or been treated as engaged) in the conduct of a trade or business or had a permanent establishment (as defined in applicable tax treaty) in a jurisdiction with respect to which the required Tax Returns have not been filed.

(iv) Each Intel Transferred Entity has complied with all information reporting and record keeping requirements under all Applicable Laws, including retention and maintenance of required records with respect thereto.

(v) None of the Intel Transferred Entities is a party to any joint venture, partnership, other arrangement or which could be treated as a partnership for any applicable income Tax purposes.

(vi) There is no taxable income or other measure of Tax of any of the Intel Transferred Entities that will be reportable in the Post-Closing Tax Period that is attributable to a transaction or event that occurred in a Pre-Closing Tax Period.

(vii) No position has been taken on any Tax Return with respect to the Intel Business or the Intel Transferred Assets that is contrary to any publicly announced position of a Governmental Authority, or that is substantially similar to any position that a Governmental Authority has successfully challenged in the course of an examination of a Tax Return of the Intel Transferred Entities.

(e) Schedule 3.10(e) of the Intel ATA Disclosure Letter sets forth in reasonable detail, as to each Intel Transferred Entity, the Intel Business and the Intel Transferred Assets, each applicable agreement, ruling or other arrangement with respect to Taxes entered into with or received from any Governmental Authority, including the terms of any agreement governing the pricing of products sold to Subsidiaries of Intel (each, an “Intel Tax Agreement”). Each of Intel, its Subsidiaries and the Intel Transferred Entities is in compliance with each Intel Tax Agreement in all material respects, and no Governmental Authority has claimed or is expected to claim that any material breach of an Intel Tax Agreement has occurred. None of Intel, its Affiliates or the Intel Transferred Entities currently has outstanding any requests for Tax rulings pertaining to the Intel Transferred Entities, the Intel Business or the Intel Transferred Assets that would reasonably be expected to affect the liability for Taxes of Holdings or its Subsidiaries after the Closing Date.

(f) The representations and warranties contained in this Section 3.10 are the only representations and warranties being made with respect to compliance with or liability under Applicable Laws relating to the Tax matters contemplated by this Section 3.10.

### 3.11 Intellectual Property.

(a) All material Intel Transferred Intellectual Property is free and clear of any Liens other than Permitted Liens. One of the Intel Transferors owns or, to Intel’s Knowledge, is licensed to use, all works of authorship and all associated Copyrights that are embodied in the Intel Products. One of the Intel Transferors has good and marketable sole title to the Intel Transferred Intellectual Property (other than with respect to any moral rights therein or relating thereto). With respect to the Intel Transferred Intellectual Property, there are no material exclusive licenses granted by Intel or its Subsidiaries. Except as provided in the Intel Intellectual Property Agreement or other Transaction Documents, upon the Closing hereof, neither Intel nor any of its Affiliates shall retain any material rights under the Intel Transferred Intellectual Property.

(b) To the Knowledge of Intel, neither (i) the current use of the Intel Transferred Intellectual Property by Intel or any of its Subsidiaries in its current operation of the Intel Transferred Assets nor (ii) the current manufacture, marketing, distribution or sale of any of the Intel Products by Intel or its Subsidiaries in their current operation of the Intel Transferred Assets infringes any Copyrights or Trade Secret rights of any third party. To the Knowledge of Intel, Intel has not received any written claims currently pending from any Person claiming that the Intel Products infringe or misappropriate the Copyrights, Trade Secrets or Patents of such Person.

(c) Intel has taken commercially reasonable steps to protect its rights in Trade Secrets of Intel embodied in the Intel Products including taking commercially reasonable steps to have all of its current and former employees, consultants and contractors employed in the Intel Business execute and deliver to Intel a proprietary information and invention assignment agreement. To the Knowledge of Intel, it has not received written notice of any violation of or non-compliance with such agreements.

(d) To Intel's Knowledge, neither Intel nor any of its Subsidiaries is subject to any outstanding decree, order, or judgment that (i) restricts in any material manner the use, transfer or licensing of the Intel Transferred Copyrights, the Intel Transferred Patents, the Intel Transferred Trade Secrets or the Intel Products, or (ii) adjudges any of the Intel Transferred Intellectual Property to be unenforceable or invalid.

(e) All Intel Transferred Patents are currently in material compliance with formal legal requirements involving the payment of fees to Governmental Authorities (including the payment of filing, examination and maintenance fees). To the Knowledge of Intel, there are no proceedings or actions pending before any court or tribunal (including the PTO or equivalent authority anywhere in the world) that involve the validity, scope or priority of Intel Transferred Intellectual Property. None of the Intel Transferred Copyrights are registered Copyrights.

(f) To Intel's Knowledge, no software source code of material proprietary value to the Intel Business is subject to obligations of public disclosure or distribution, under any "open source license" or otherwise.

### 3.12 Employee Matters.

(a) Pension Plans. At no time has Intel or any other Person or entity under common control with Intel within the meaning of Section 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986 and the regulations issued thereunder, contributed to or been obligated to contribute to any Multiemployer Plan or any plan maintained pursuant to a collective bargaining agreement or any plan subject to Title IV of ERISA.

(b) Labor. No work stoppage or labor strike against Intel or any of its Subsidiaries is pending or, to Intel's Knowledge, threatened in writing or reasonably anticipated with respect to the Intel Business Employees. Intel has no Knowledge of any activities or proceedings of any labor union to organize any Intel Business Employees who are not currently represented by a labor or trade union or employee representative body. There are no actions, suits, claims, labor disputes or grievances pending, or, to the Knowledge of Intel, threatened in writing or reasonably anticipated relating to any labor, safety or discrimination matters involving any Intel Business Employee, including charges of unfair labor practices or discrimination complaints, which, if adversely determined, would reasonably be expected to have an Intel Material Adverse Effect. Neither Intel nor any of its Subsidiaries is presently, nor has it been in the past, a party to, or bound by, any collective bargaining agreement, collective agreement or recognition arrangement with any labor or trade union, works council, European works council or other employee representative body or union contract with respect to Intel Business

Employees and no such agreement is being negotiated by Intel with respect to the Intel Business Employees. The consent, notice or opinion of any such employee representative body with respect to the Intel Business Employees is not required to consummate any of the transactions contemplated by this Agreement or any of the other Transaction Documents.

(c) Intel Business Employee List. Schedule 3.12(c) of the Intel ATA Disclosure Letter (i) sets forth the Intel Business Employees as of the date hereof and identifies the country (and state, for those in the United States) in which each such Intel Business Employee is based and primarily performs his or her duties and (ii) identifies certain Numonyx Allocated Positions which shall be offered to certain employees of Intel in accordance with Section 4.11(b) of the Master Agreement. Schedule 3.12(c) shall be updated solely to reflect the change in employment status of any Intel Business Employee, the amendments permitted by Section 4.11(b) of the Master Agreement and such other changes as may reasonably be agreed upon by the Parties.

(d) Nature of Representations and Warranties. The representations and warranties contained in this Section 3.12 are the only representations and warranties being made with respect to compliance with or liability under Applicable Laws relating to the employment matters contemplated by this Section 3.12.

### 3.13 Financial Information.

(a) Intel has delivered to Holdings or Numonyx copies of the *estimated* unaudited consolidated statement of net revenue and direct expenses of the Intel Business for the year ended December 30, 2006 (the "Intel Financial Information Date") and the related *estimated* net book value of the fixed assets and inventories of the Intel Business as of the Intel Financial Information Date (collectively, the "Intel Financial Information"). The Intel Financial Information has been prepared internally by Intel for management reporting purposes only and has not been audited by any independent certified public accountants or auditors.

(b) The Intel Financial Information has been derived from the books and records of Intel and have not been separately audited. The Intel Financial Information does not contain all adjustments necessary to comply with GAAP. The Intel Financial Information does not reflect the assets, liabilities, revenues and expenses that would have resulted if the Intel Business had operated as an unaffiliated independent company; *provided, however*, that the Intel Financial Information includes estimations for allocation of various revenues, costs and expenses on a reasonable basis.

3.14 Absence of Certain Changes. Since the Intel Financial Information Date, other than with respect to the transactions contemplated by the Transaction Documents, the Intel Business has been conducted in the ordinary course of business, and there has not been:

(a) (i) any sale, assignment or transfer of any of the material Intel Transferred Assets or any license of any of the Intel Transferred Intellectual Property, except, in each case, in the ordinary course of business and the transfer of Intel Transferred Assets to



Intel Transferred Entities as contemplated hereby, or (ii) any creation, assumption or sufferance of (whether by action or omission) the existence of any Lien on any of the Intel Transferred Assets, other than Permitted Liens;

(b) any waiver, amendment, termination or cancellation of any material Intel Transferred Contract or any relinquishment of any material rights thereunder by Intel or its Subsidiary which is party thereto, or, to the Knowledge of Intel, any other party, other than, in each such case, actions taken with respect to any such Intel Transferred Contract in the ordinary course of business that are not material to the Intel Business;

(c) any material change by Intel or any Subsidiary of Intel in its accounting principles, methods or practices relating to the Intel Business or in the manner it keeps its accounting books and records relating to the Intel Business, except (i) any such change required by a change in GAAP or (ii) any change that results from the audit contemplated by Section 5.2(h) of the Master Agreement;

(d) any damage, destruction or other casualty loss that is material to the Intel Transferred Assets taken as a whole;

(e) (i) any failure to make an amount of capital expenditures described in the Intel Business Capital Expenditures Plan that is material, in the aggregate, to the Intel Business or (ii) any incurrence of any additional Intel Transferred Liabilities for capital expenditures that are material, in the aggregate, to the Intel Business, except for those described in the Intel Business Capital Expenditures Plan;

(f) any failure to maintain the Intel Transferred Assets as a whole, in all material respects in at least as good condition as they were being maintained on the Intel Financial Information Date, subject to normal wear and tear;

(g) any acquisition, directly or indirectly, of all or substantially all of the assets of any business or of equity interests in any Person or business, whether by merger, consolidation or otherwise, that relates to the Intel Business;

(h) any creation, incurrence, assumption or guarantee, or modification of the terms, of any Indebtedness with respect to the Intel Business, other than the Contemplated Financing or the Contributor Financing, except in the ordinary course of business;

(i) any Intel Material Adverse Effect; or

(j) any agreement for Intel or any of its Subsidiaries to take any of the actions specified in paragraphs (a) through (h) above.

### 3.15 Environmental Matters.

(a) Except as would not reasonably be expected to have an Intel Material Adverse Effect: (i) Intel and each of its Subsidiaries, in each case with respect to the Intel Transferred Assets or the Intel Business, and each Intel Transferred Entity is in

compliance with all applicable Environmental Laws; (ii) Intel and each of its Subsidiaries, in each case with respect to the Intel Transferred Assets or Intel Business, and each Intel Transferred Entity has obtained, and is in material compliance with, all Environmental Permits; (iii) neither Intel nor any of its Subsidiaries, in each case with respect to the Intel Transferred Assets or the Intel Business nor any Intel Transferred Entity is conducting or funding, or is required to conduct or fund, any Remedial Action pursuant to any Environmental Law; (iv) to Intel's Knowledge, no property to which an Intel Transferred Entity or, in connection with the Intel Business, Intel has, directly or indirectly, transported or arranged for the transportation of any Hazardous Substances is listed on any list of sites requiring investigation or cleanup promulgated by any relevant Governmental Authority; (v) there are no claims relating to any Environmental Law pending or, to the Knowledge of Intel, threatened in writing against Intel or any of its Subsidiaries, in each case with respect to the Intel Transferred Assets or the Intel Business, or any Intel Transferred Entity; and (vi) to Intel's Knowledge, there has been no environmental investigation, study, audit, test, review or other analysis conducted within the past five years that documents conditions giving rise to any material Environmental Liability, that relates to the Intel Transferred Assets, the Leased Intel Real Property, the Intel Business, any Intel Transferred Entity or any other property or facility now or previously owned or leased by Intel in connection with the Intel Business, and that has not been delivered to Holdings or one of its Subsidiaries within at least five days of the date hereof.

(b) The representations and warranties contained in this [Section 3.15](#) are the only representations and warranties being made with respect to compliance with or liability under Environmental Laws, including natural resources, related to the Intel Business, the Intel Transferred Assets or Intel's or its Subsidiaries' ownership or operation thereof.

3.16 [Product Warranties](#). A copy of Intel's product warranties currently in effect with respect to the Intel Products as set forth in the order acknowledgement forms for the Intel Products (the "[Intel Standard Form Product Warranties](#)") is set forth on [Schedule 3.16](#) of the Intel ATA Disclosure Letter. Neither Intel nor any of its Subsidiaries has given any written product warranty with respect to the Intel Products other than the Intel Standard Form Product Warranties. The Intel Products, taken as a whole, comply in all material respects with all such product warranties and all material specifications applicable to the Intel Products. To the Knowledge of Intel, there are no outstanding material claims with respect to product warranties relating to the Intel Products. As of the Closing Date, the Intel Products constitute all of the products produced or sold by Intel or any of its Subsidiaries exclusively related to the Intel Business.

3.17 [Intel Transferred Assets](#). The Intel Transferred Assets and the assets made available to Holdings or its Subsidiaries under, or to be used by Intel and its Subsidiaries in the performance of, the Intel Ancillary Agreements will, as of the Closing, constitute all of the material assets (other than any Intellectual Property) necessary for the conduct of the Intel Business as it is conducted by Intel and its Subsidiaries as of the Closing Date.

3.18 Customers. Schedule 3.18 of the Intel ATA Disclosure Letter lists the names of the 10 largest customers to whom the Intel Business has sold products during the year ended December 30, 2006 (based on dollar amount of revenue recognized in connection with the sale of such Intel Products during such year). To Intel's Knowledge, neither Intel nor any of its Subsidiaries has received any written statement from any customer whose name appears on Schedule 3.18 of the Intel ATA Disclosure Letter that such customer will not continue as a customer of the Intel Business after the Closing.

3.19 Insurance. Intel has delivered to Holdings summaries of all material insurance policies and fidelity bonds relating to the Intel Transferred Assets and the Intel Business. There are no material Claims by Intel or any of its Subsidiaries pending under any of such policies or bonds as to which coverage has been questioned, denied or disputed by the underwriters of such policies or bonds or in respect of which such underwriters have reserved their rights.

3.20 Inventories. The *estimated*, unaudited book value of the Intel Transferred Inventories set forth in the Intel Financial Information were determined in a manner not materially inconsistent with GAAP. As of the end of Intel's first fiscal quarter of 2007, the *estimated* unaudited Intel Inventory Value is as set forth on Schedule 3.20 to the Intel ATA Disclosure Letter. Such *estimated*, unaudited book value of the Intel Transferred Inventories and the Intel Inventory Value were prepared internally by Intel for management reporting purposes only, have not been audited by any independent certified public accountants or auditors and are further qualified by the limitations set forth in Section 3.13(b). Since the Intel Financial Information Date, the levels of Intel Transferred Inventory have been maintained in the ordinary course of business. The Intel Transferred Inventories are owned free and clear of all Liens other than Permitted Liens.

3.21 Advisory Fees. There is no investment banker, broker, finder or other intermediary or advisor that has been retained by or is authorized to act on behalf of Intel, who will be entitled to any fee, commission or reimbursement of expenses from any Person other than Intel upon consummation of the transactions contemplated by this Agreement.

3.22 Representations Regarding Intel Transferred Entities and Intel Transferred Interests.

(a) Organization. Each Intel Transferred Entity is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization (to the extent such concept is recognized in such jurisdiction) and has all requisite power and authority required to carry on its business as now conducted and to own and operate the Intel Business as now owned and operated by it. Each Intel Transferred Entity is, or will be, as of the Closing Date, qualified to conduct business and in good standing (to the extent such concept is recognized in such jurisdiction) in each jurisdiction in which it conducts the Intel Business other than such jurisdictions where the failure to be so qualified would not reasonably be expected to have an Intel Material Adverse Effect. The Intel Transferred Entities and their respective jurisdictions of organization are identified on Schedule 3.22(a).

(b) Capitalization.

(i) As of the Closing, the authorized share capital of the Intel Transferred Entities shall be as set forth in Schedule 3.22(b) of the Intel ATA Disclosure Letter, and of such authorized share capital, only the Intel Transferred Interests shall be issued and outstanding. As of the Closing, no other shares of the Intel Transferred Entities shall have been authorized or designated as a series or shall be issued and outstanding. As of the Closing, all of the Intel Transferred Interests shall have been duly authorized, validly issued, fully paid and non-assessable, shall have been issued in material compliance with all Applicable Laws and shall have been issued in compliance with all applicable preemptive rights created by statute, the charter or other governing instruments of the Intel Transferred Entities and any agreement to which such Intel Transferred Entities are bound or by which their properties or assets are bound.

(ii) As of the Closing, there shall not be outstanding (A) any options, warrants or other rights to purchase from any Intel Transferred Entity any capital stock or other securities of such Intel Transferred Entity, (B) any securities, notes or other indebtedness convertible into or exchangeable for shares of such capital stock or securities, (C) any other commitments or rights of any kind for any Intel Transferred Entity to issue additional shares of capital stock, options, warrants or other securities or (D) any equity equivalent or other ownership interests in any Intel Transferred Entity or similar rights.

(iii) As of the Closing, Intel and its Subsidiaries shall be the sole registered and beneficial owners of the Intel Transferred Interests and the Intel Transferred Interests shall be free and clear of all Share Encumbrances. Upon delivery of certificates evidencing certificated Intel Transferred Interests to Holdings or a Subsidiary of Holdings together with any executed share transfer deeds or instruments for the Intel Transferred Interests necessary to transfer the Intel Transferred Interests under Applicable Law, and payment by Holdings of the amount due and payable to Intel pursuant to Section 2.6, Holdings or a Subsidiary of Holdings will acquire good and marketable title to such Intel Transferred Interests, free and clear of any Share Encumbrance.

(c) Ownership. Schedule 3.22(c) of the Intel ATA Disclosure Letter sets forth the identity of each of the holders of equity interests in the Intel Transferred Entities and their respective ownership interests in the Intel Transferred Entities. The Intel Transferred Entities do not have any Subsidiaries and do not, directly or indirectly, own any equity investment or other ownership interest in any Person. No Intel Transferred Entity is a participant in any joint venture, partnership or similar arrangement.

(d) Indebtedness. No Intel Transferred Entity has any outstanding Indebtedness.

### 3.23 Investment Representations.

(a) Investigation; Economic Risk. Intel acknowledges that it has had an opportunity to discuss the business, affairs and current prospects of Holdings and its

Subsidiaries with the officers of Holdings and Numonyx. Intel further acknowledges having had access to information about Holdings and its Subsidiaries that it has requested. Intel acknowledges that it is able to fend for itself in the transactions contemplated by this Agreement and has the ability to bear the economic risks of its investment in Holdings pursuant to this Agreement. Intel is an “accredited investor,” as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act.

(b) Purchase for Own Account. The Intel Holdings Shares will be acquired for the account of Intel or a Affiliate of Intel, not as a nominee or agent, and not with a view to or in connection with the sale or distribution of any part thereof. The Intel Option Shares will be acquired for the account of the holder of the Intel Option, not as a nominee or agent, and not with a view to or in connection with the sale or distribution of any part thereof.

(c) Exempt from Registration; Restricted Securities. Intel understands that the Intel Holdings Shares and Intel Option Shares will not be registered under the Securities Act, on the basis that the sale provided for in this Agreement is exempt from registration under the Securities Act, and that the reliance of Holdings on such exemption is predicated in part on Intel’s representations set forth in this Agreement. Intel understands that the Intel Holdings Shares and Intel Option Shares being issued hereunder are restricted securities within the meaning of Rule 144 under the Securities Act; that the Intel Holdings Shares and Intel Option Shares are not registered and must be held indefinitely unless they are subsequently registered or an exemption from such registration is available.

3.24 Disclaimer of Warranties. EXCEPT WITH RESPECT TO THE WARRANTIES AND REPRESENTATIONS SPECIFICALLY SET FORTH IN THIS ARTICLE III (WHICH MAY BE RELIED UPON BY HOLDINGS AND NUMONYX), ALL OF THE TRANSFERRED ASSETS ARE BEING SOLD “AS IS, WHERE IS,” AND NEITHER INTEL NOR ANY OF ITS SUBSIDIARIES MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WHETHER OF MERCHANTABILITY, SUITABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR QUALITY AS TO THE TRANSFERRED ASSETS OR ANY PART OR ITEM THEREOF, OR AS TO THE CONDITION, DESIGN, OBSOLESCENCE, WORKING ORDER OR WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR OTHERWISE.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF HOLDINGS AND NUMONYX**

Each of Holdings and Numonyx hereby represents and warrants to Intel, as of the date of this Agreement, as follows:

4.1 Existence and Good Standing. Holdings has been duly organized and is validly existing as a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) under Dutch law and has all requisite power and authority required to carry on its business as now conducted and to own and operate its businesses as now owned and

operated by it. Holdings has heretofore delivered to Intel complete and correct copies of its articles of association and governance rules as currently in effect. Each Subsidiary of Holdings has been duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all requisite power and authority required to carry on its business as now conducted and to own and operate its business as now owned and operated by it. Holdings has heretofore delivered to Intel complete and correct copies of the articles of incorporation and bylaws or other organizational documents of each Subsidiary of Holdings.

4.2 Authorization and Enforceability. Each of Holdings and Numonyx has all requisite corporate power and authority to execute and deliver this Agreement, and Holdings and each of its Subsidiaries has all requisite corporate power and authority to execute and deliver each of the Transaction Documents to which it is or will be a party and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Holdings and Numonyx of this Agreement, and the execution and delivery by Holdings and each of its Subsidiaries of each of the Transaction Documents to which it is a party and the performance by Holdings and each of its Subsidiaries of each of its obligations contemplated hereby and thereby have been duly and validly authorized by all necessary corporate action. This Agreement has been, and when executed at the Closing the other Transaction Documents to which Holdings and each of its Subsidiaries is a party will have been, duly and validly executed and delivered by Holdings and each such Subsidiary, and assuming the due execution and delivery of this Agreement and the other Transaction Documents to which it is a party by Intel and each of the other parties thereto, this Agreement constitutes the legal, valid and binding agreement of Holdings and Numonyx, enforceable against Holdings and Numonyx in accordance with its terms, and as of the Closing each of the Transaction Documents to which Holdings or any Subsidiary of Holdings is a party will constitute, the legal, valid and binding agreement of Holdings or such Subsidiary enforceable against Holdings or such Subsidiary in accordance with their respective terms, except to the extent (a) that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or, where appropriate, to general principles of equity or (b) indemnification provisions contained in the Securityholders' Agreement may be limited by applicable securities laws.

4.3 Non-Contravention. The execution, delivery and performance by each of Holdings and its Subsidiaries of the other Transaction Documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not contravene or conflict with the articles of association or governance rules of Holdings or the organizational documents of any of its Subsidiaries.

4.4 Capitalization.

(a) Immediately following the Closing, the capitalization of Holdings will consist of the following:

(i) Ordinary Shares. A total of 250,000,000 Ordinary Shares of Holdings will be authorized, of which 210,700,758 shares will be issued and outstanding, of which an aggregate of 101,436,851 Ordinary Shares will be held by Intel and Intel Singapore and 109,263,907 Ordinary Shares will be held by ST.

Holdings will have sufficient authorized share capital with respect to its Ordinary Shares and Series A-1 Preferred Shares upon a conversion of the Series A Preferred Shares in accordance with the terms and conditions of the Securityholders' Agreement and sufficient authorized share capital with respect to its Ordinary Shares for issuance under the Equity Plan (of which no such shares shall be subject to outstanding options, and all of which shares shall be available for future issuance). The Outstanding Ordinary Shares will have been validly issued, will be fully paid upon transfer of certain relevant Intel Transferred Assets to Holdings, the receipt of the payment in cash made by Intel Singapore upon exercise of the Intel Option pursuant to the terms therein for Ordinary Shares and contribution of the ST Numonyx Shares to Holdings, and will have been issued in accordance with the registration or qualification provisions of all applicable securities laws, or pursuant to valid exemptions therefrom.

(ii) Preferred Shares. A total of 14,346,718 Preferred Shares, consisting of 14,204,545 Series A Preferred Shares and 142,045 Series A-1 Preferred Shares will be authorized, all of which Series A Shares will be issued and outstanding and held by FP, and no Series A-1 Preferred Shares will be outstanding. When issued pursuant to the terms of the FP Purchase Agreement and the Outstanding Series A Preferred Shares will have been validly issued, will be fully paid upon receipt of the Equity Purchase Price by Holdings, and will have been issued in accordance with the registration or qualification provisions of all applicable securities laws, or pursuant to valid exemptions therefrom.

(iii) Options, Warrants, Reserved Shares. Except for (i) the conversion privileges of the Series A Preferred Shares; (ii) the rights to purchase new securities set forth in the Securityholders' Agreement, the provisions of the Articles of Association and mandatory provisions of the laws of The Netherlands; and (iii) the Intel Option, there are no options, warrants, conversion privileges or other rights (or agreements for any such rights) outstanding to purchase or otherwise obtain from Holdings any of Holdings' securities. Other than as set forth in the Securityholders' Agreement, there exists no Holdings obligation (contingent or otherwise) to purchase, redeem or otherwise acquire any of its equity securities or any interest therein.

(b) As of the date hereof, immediately prior to the Closing, a total of 99,000 Class A shares and 1,000 Class B shares of Numonyx are authorized, of which 20,000 Class A shares are issued and outstanding, all of which are held by Holdings, and no Class B shares are issued and outstanding. As of the date hereof, immediately prior to the Closing, and prior to the effectiveness of the Intel Entity Capitalization and Assignment Agreement and the ST Entity Capitalization and Assignment Agreement, Holdings does not own, directly or indirectly, any equity interest in any Person, other than Numonyx.

#### 4.5 Valid Issuance of Shares.

(a) The Intel Holdings Shares, when issued, sold and delivered in accordance with the terms of this Agreement, and the Intel Option, when issued, sold and delivered in

accordance with the terms of the Master Agreement and the Intel Option Shares, when issued, sold and delivered in accordance with the terms of the Intel Option, will be duly and validly issued, fully paid upon receipt of the Exercise Price (as defined in the Intel Option), and will be free of restrictions on transfer other than restrictions on transfer under the Equity Transaction Documents, the laws of The Netherlands and applicable securities laws.

(b) The outstanding shares of Holdings are duly and validly issued and fully paid upon receipt of the Equity Purchase Price and the consummation of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement and exercise in full of the Intel Option pursuant to the terms therein, and such shares of such capital stock, and all outstanding shares, options and other securities of Holdings have been issued in full compliance with exemptions from the registration requirements of the Securities Act, and are exempt from registration or qualification under the registration, permit or qualification requirements of all applicable state securities laws and all other provisions of applicable federal and state securities laws and applicable laws of The Netherlands, including, without limitation, anti-fraud provisions.

4.6 Exempt Offering. Based in part upon Intel's representations in Section 3.23, the offer and sale of the Intel Holdings Shares and Intel Option pursuant to this Agreement and the Intel Option Shares pursuant to the Intel Option are exempt from the registration requirements of Section 5 of the Securities Act by virtue of Regulation D thereunder, from the qualification requirements of the California Corporate Securities Law of 1968, by virtue of Section 25102(f) thereof, and from the registration or qualification requirements of any other applicable foreign or state securities laws.

4.7 Lack of Registration Rights and Voting Agreements. Except as set forth in the Securityholders' Agreement, Holdings has not granted or agreed to grant any registration rights to any Person. There is no agreement or restriction relating to the voting of any shares of Holdings other than as set forth in the Securityholders' Agreement.

4.8 Reliance. In executing this Agreement and the Intel Ancillary Agreements to which it is a party, Holdings and its Subsidiaries are relying on the investigations by ST and FP (or its Affiliates), and on the provisions set forth herein and therein and not on any other statements, presentations, representations, warranties or assurances of any kind made by Intel, its representatives or any other Person. Holdings and Numonyx acknowledge that (a) the representations and warranties of Intel contained in Article III hereof constitute the sole and exclusive representations and warranties of Intel to Holdings and Numonyx in connection with this Agreement and the transactions contemplated hereby and (b) all other representations and warranties are specifically disclaimed and may not be relied upon or serve as a basis for a claim against Intel. HOLDINGS AND NUMONYX ACKNOWLEDGE THAT INTEL DISCLAIMS ALL WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN THIS AGREEMENT AS TO THE INTEL TRANSFERRED ASSETS, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED EXPRESSLY



IN THIS AGREEMENT, HOLDINGS AND ITS SUBSIDIARIES ARE ACQUIRING THE INTEL TRANSFERRED ASSETS ON AN “AS IS, WHERE IS” BASIS.

## ARTICLE V COVENANTS

### 5.1 Access to Information.

(a) Holdings shall and shall cause its Subsidiaries to permit Intel to retain copies of Intel Books and Records for its internal use or for audit, tax or regulatory purposes or for any use required by Applicable Law and shall maintain for six years after the Closing Date all of the Intel Books and Records pertaining to the Intel Transferred Entities, Intel Transferred Assets and the Intel Transferred Liabilities relating to periods prior to the Closing. Holdings shall and shall cause its Subsidiaries to provide Intel and its representatives, during normal business hours and upon reasonable notice from Intel, with reasonable access to such Intel Books and Records. If, at any time after the sixth anniversary of the Closing Date, Holdings or any of its Subsidiaries proposes to dispose of any of such books and records, Holdings shall, or shall cause such Subsidiary to, first offer to deliver the same to Intel at the expense of Intel.

(b) Each Party (the “Possessing Party”) will afford the other Party (the “Receiving Party”), its counsel and its accountants, during normal business hours, reasonable access to information in the Possessing Party’s possession or control relating to the Intel Transferred Assets, the Intel Transferred Liabilities, the Intel Transferred Entities and the Intel Business, and, to the extent reasonably requested, at the Receiving Party’s expense, will provide copies and extracts therefrom, all to the extent that such access may be reasonably required by the Receiving Party in connection with (i) the preparation of Tax Returns, (ii) compliance with the requirements of any Governmental Authority or (iii) to facilitate the resolution of claims made by a third party against or incurred by Intel or its Subsidiaries or Holdings or its Subsidiaries pertaining to the Intel Transferred Assets, the Intel Transferred Liabilities, the Intel Transferred Entities or the Intel Business; *provided, however*, that nothing in this Section 5.1(b) shall be deemed to require any Party to disclose any information that it is prohibited from disclosing under any non-disclosure agreement entered into prior to the date of the Master Agreement or in the ordinary course of business after the date of the Master Agreement.

5.2 Compliance with Terms of Governmental Approvals and Consents. From and after the Closing Date, Holdings and its Subsidiaries shall comply at their own expense with all conditions and requirements imposed on Holdings and its Subsidiaries as set forth in (a) Numonyx Approvals that are Governmental Approvals, to the extent necessary such that all such Governmental Approvals will remain in full force and effect assuming, if applicable, continued compliance with the terms thereof by Intel and (b) all Numonyx Approvals of Persons other than Governmental Authorities, to the extent necessary such that all such consents and approvals will remain effective and enforceable against the Persons giving such consents and approvals, assuming, if applicable, continued compliance with the terms thereof by Intel.

5.3 Use of Marks. Notwithstanding any other provision, no interest in or right to use the name “INTEL” or any derivation thereof or any other Trademarks, service marks or tradenames of Intel, other than the Intel Transferred Trademarks, (the “Intel Retained Marks”) is being transferred or otherwise licensed to Holdings or any of its Subsidiaries pursuant to the transactions contemplated by this Agreement. Holdings agrees not to, and to cause its Subsidiaries not to, use any materials bearing Intel Retained Marks or sell, transfer or ship any products bearing Intel Retained Marks (a) unless requested to do so by Intel, (b) except to the extent displayed on the hardcopy (non-electronic) form of such materials delivered to Holdings or a Subsidiary of Holdings at the Closing, (c) except as required under Intel Transferred Contracts with customers or (d) except on Intel Transferred Inventory, product instructions, labeling, containers, data sheets, specifications and any similar materials directly related to the Intel Transferred Inventory in existence as of the Closing Date. Further, (i) dies manufactured by or for Holdings or any of its Subsidiaries using mask sets included in the Intel Transferred Assets may bear Intel Retained Marks only to the extent that it is not commercially reasonable to manufacture dies using such mask sets that do not bear such Intel Retained Marks, and (ii) Holdings and its Subsidiaries may include the block “I” trademark (the “Block “I” Trademark”) on the packaging of any product that has been or will be marked with the Block “I” Trademark by Intel prior to the termination of the Intel Transition Services Agreement and product instructions, labeling, containers, data sheets, specifications, JEDEC codes, and any other materials directly related to such products. The foregoing rights are subject to Intel’s standard Trademark usage guidelines, a copy of which has been provided to Holdings and Numonyx, to any applicable provisions of the Intel Transition Services Agreement, and to any applicable provisions of the Intel Intellectual Property Agreement, and Intel reserves the right to practice quality control with regard to its marks and any products or services marketed or sold thereunder. Holdings shall, and shall cause its Subsidiaries to, comply with any reasonable instructions of which it is notified by Intel relating to Intel’s exercising of such quality control rights. Upon the expiration of the foregoing license, all materials bearing any Intel Retained Mark in the possession or control of Holdings or any of its Subsidiaries or any of their agents shall be promptly destroyed. Prior to any distribution of any materials bearing Intel Retained Marks, Holdings shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to redact or modify such materials in order to minimize or eliminate the use of the Intel Retained Marks.

5.4 Cooperation in Third Party Litigation. Each Party shall provide such assistance and cooperation as the other Party or its counsel may reasonably request in connection with any claims, Proceedings or investigations relating to the Intel Business or the Intel Transferred Assets, Intel Transferred Liabilities, Intel Transferred Entities; *provided*, that the Party making such request shall reimburse each such other Party for its reasonable and documented out-of-pocket costs and expenses in providing such assistance; *provided*, that such assistance shall not unreasonably interfere with the business and operations of any such other Party.

#### 5.5 Assignments

(a) Intel will reasonably cooperate with Holdings and its Subsidiaries in transferring applications and registrations for the Intel Transferred Copyrights, Intel Transferred Trademarks and the Intel Transferred Patents to the extent that Intel has applied for or obtained registrations therefor; *provided, however*, that following the Closing, subject to Section 5.4, Intel shall not have or incur any further obligations or

expenses in connection therewith, and it shall be the sole responsibility of Holdings and its Subsidiaries to pursue, protect or perfect any such rights as it may see fit in its sole discretion.

(b) Following the Closing, in the event that (i) Intel identifies Intel Excluded Assets that have been erroneously identified for delivery or delivered to Holdings or a Subsidiary of Holdings, Holdings shall or shall cause such Subsidiary to use commercially reasonable efforts to return such Intel Excluded Assets to Intel at Intel's expense or (ii) Holdings or a Subsidiary of Holdings identifies Intel Transferred Assets that any Intel Transferor has failed to deliver to Holdings or a Subsidiary of Holdings or an Intel Transferred Entity, such Intel Transferor shall use commercially reasonable efforts to deliver such Intel Transferred Assets to Holdings or such Subsidiary of Holdings at Intel's expense.

5.6 Reasonable Efforts. Each of Holdings, Numonyx and Intel will cooperate and use its commercially reasonable efforts to take, or cause to be taken, all appropriate actions (and to make, or cause to be made, all filings and notifications necessary, proper or advisable under Applicable Law) to consummate and make effective the transactions contemplated by this Agreement and the Transaction Documents, including its commercially reasonable efforts to obtain, as promptly as practicable, all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Authorities and parties to contracts, as are necessary for the consummation of the transactions contemplated by this Agreement and the Transaction Documents to which it is a party.

5.7 Allocation of Non-Tax Operating Expenses. All utility charges, gas charges, electric charges, water charges, water rents and sewer rents, if any, shall be apportioned between Holdings and its Subsidiaries, on the one hand, and Intel, on the other hand, as of the Closing Date, computed on the basis of the most recent meter charges or, in the case of annual charges, on the basis of the established fiscal year. All Prepayments (including lease expenses but excluding Taxes and Intel Prepayments) paid by Intel prior to the Closing Date and all other operating expenses paid by Holdings or its Subsidiaries with respect to the Intel Business shall be apportioned between Holdings and its Subsidiaries, on the one hand, and Intel, on the other hand, as of the Closing Date computed on the basis of the applicable time period to which expenses apply. Within 90 days after the Closing, each Party shall present a statement to the other Party setting forth the amount of reimbursement to which each is entitled under this Section 5.7, together with such supporting evidence as is reasonably necessary to calculate the proration amount. Such amount shall be paid by the Party owing it to the other within 10 days after delivery of such statement.

#### 5.8 Tax Matters.

(a) Tax Returns. Intel shall prepare or cause to be prepared all Tax Returns with respect to the Intel Transferred Assets and the Intel Business for the Pre-Closing Tax Period, other than the Tax Returns of the Intel Transferred Entities for taxable periods that end following the Closing Date. Holdings shall prepare or cause to be prepared all Tax Returns with respect to the Intel Transferred Assets and the Intel Business for the Post-Closing Tax Period and of the Intel Transferred Entities for taxable periods ending

after the Closing Date. All Tax Returns with respect to the Intel Transferred Entities, Intel Transferred Assets or Intel Business prepared by Holdings or a Subsidiary of Holdings for taxable periods that include but do not end on the Closing Date (each such period, a “Straddle Period”) shall be prepared in a manner consistent with prior Tax Returns filed by the Intel Transferred Entities, except as otherwise required by Applicable Law. To the extent Intel would be liable for all or any portion of the Taxes shown on any Straddle Period Tax Return, such Tax Return shall be provided to Intel no later than 30 days prior to the filing thereof, and any disputes concerning the manner in which such Tax Returns are prepared shall be resolved as provided in Section 5.8(h). Holdings shall not amend or permit to be amended any Tax Returns with respect to an Intel Transferred Entity to the extent such amendment could increase the liability of Intel hereunder.

(b) Responsibility for Payment of Taxes. Except as otherwise provided in this Section 5.8:

(i) Intel shall be liable for and shall indemnify, defend and hold Holdings and its Subsidiaries harmless from and against (A) all Taxes arising from the Intel Transferred Assets or the Intel Business with respect to the Pre-Closing Tax Period, including all Taxes of the Intel Transferred Entities attributable to the Pre-Closing Tax Period to the extent not paid prior to the Closing, (B) all Taxes imposed on any Intel Transferred Entity as a result of being or having been a member of an affiliated, consolidated, combined, unitary, fiscal unity or similar group of which Intel or any of its Affiliates is or was a member, other than Taxes arising from the income, assets or operations of Holdings and its Subsidiaries during the Post-Closing Tax Period, and (C) all Taxes imposed on any Intel Transferred Entity as a result of being or having been party to any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person for Taxes that was entered into prior to the Closing, other than Taxes arising from the income, assets or operations of Holdings and its Subsidiaries during the Post-Closing Tax Period; *provided, however*, that Taxes arising on the Closing Date by reason of actions taken by or at the request of Holdings or a Subsidiary of Holdings out of the ordinary course of business following the Closing and without the consent of Intel shall be the responsibility of Holdings and its Subsidiaries.

(ii) Holdings shall be liable for and shall indemnify, defend and hold Intel harmless from and against all Taxes arising from the Intel Transferred Assets or the Intel Business with respect to the Post-Closing Tax Period, including all Taxes of the Intel Transferred Entities attributable to the Post-Closing Tax Period, except to the extent that such Taxes are Intel’s obligation under Section 5.8(b)(i) or are subject to indemnification from Intel pursuant to Section 6.2(a) (but subject to Section 6.2(g)) and except for any Taxes imposed on Intel or its Affiliates by virtue of their ownership of equity in Holdings.

(iii) Taxes with respect to any of the Intel Transferred Entities for a Straddle Period shall be calculated by means of a closing of the books and records

of such Intel Transferred Entity as of the close of the Closing Date, as if such Straddle Period ended as of the close of the Closing Date; *provided*, that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions computed as if the Closing Date was the last day of the taxable period) shall be allocated between the portion of the period ending on the Closing Date and the portion of the period after such day in proportion to the number of days in each such period; and, *provided*, further, that personal property, ad valorem and other similar Taxes that are not based on income, revenue, expenses or any combination thereof (“Property Taxes”) for a Straddle Period shall be allocated between the Pre-Closing Tax Period and the Post-Closing Tax Period in proportion to the number of days in each such period (except as provided in the immediately succeeding sentence). Property Taxes with respect to the Intel Transferred Assets other than those owned by the Intel Transferred Entities shall be allocated similarly. Intel shall be liable for the amount of such Taxes that is attributable to the Pre-Closing Tax Period (other than to the extent of any increase in Property Taxes attributable to the transactions described herein), and Holdings shall be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period (including any increase in Property Taxes attributable to the transactions described herein).

(iv) Within a reasonable period after the Closing, and from time to time thereafter upon the receipt by a Party of a bill, assessment or other notice of Tax due, Intel and Holdings shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this Section 5.8(b), together with such supporting evidence as is reasonably necessary to calculate the amount owed. The amount owed shall be paid by the Party owing it to the other within 10 days after delivery of such statement or, if later, 3 days prior to the time such Taxes are required to be paid to the appropriate Governmental Authority. In the event that either Intel or Holdings makes a payment for which it is entitled to reimbursement under this Section 5.8(b), the other Party shall pay such reimbursement promptly, but in no event later than 30 days after the presentation of a statement setting forth the amount of reimbursement to which the presenting Party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement. Any payment required under this Section 5.8(b) and not made when due shall bear interest at the rate of 10% per annum.

(c) Sales and Use Taxes. All Sales Taxes incurred by Intel or its Affiliates in connection with the transfer of Intel Transferred Assets to an Intel Transferred Entity (whether such Sales Taxes arise upon such transfer or upon the transfer of the underlying Intel Transferred Interests to Holdings or its Subsidiaries) shall be borne by Intel or its Affiliates (but not the Intel Transferred Entities) to the extent such Sales Taxes exceed the Sales Taxes that would have been incurred if the underlying Intel Transferred Assets were transferred directly by the historical owner thereof to Holdings or a Subsidiary of Holdings (located in the same jurisdiction as such Intel Transferred Entity) without the intervening transfer to such Intel Transferred Entity. All other Sales Taxes incurred by the Parties or their Affiliates as a consequence of the transfer of the Intel Transferred

Assets (including the Intel Transferred Interests) to Holdings or a Subsidiary of Holdings shall be determined as soon as practicable after the Closing based on the allocation described in Section 5.2 and shall be borne 50% by Holdings and 50% by Intel; *provided, however*, that in no event shall Holdings' share of such Sales Taxes exceed \$5,000,000. Notwithstanding the foregoing, Holdings or its Subsidiaries shall pay 100% of all Sales Taxes to the extent the payment thereof by Holdings or such Subsidiaries gives rise to a right to claim a refund of or credit against Taxes otherwise payable by Holdings or its Subsidiaries under Applicable Law (and such amount shall not count toward the \$5,000,000 cap in the preceding sentence). To the extent permitted by Applicable Law, Holdings and Intel shall cooperate and use commercially reasonable efforts to minimize such Sales Taxes. To the extent a taxing authority provides notice to Intel or Holdings of an audit of Sales Taxes for which the other Party has any responsibility hereunder, the Party receiving the notice shall promptly notify the other Party. The Parties shall cooperate as reasonably requested to defend any audit with respect to Sales Taxes described herein, and the Party responsible therefor shall pay when due any additional Sales Taxes ultimately assessed (together with any interest, penalties or additions to tax with respect thereto) in the ratios described above. Intel shall control all Sales Tax audits where Intel or its Affiliates bear 100% of the underlying Sales Tax, and Intel and Holdings shall jointly control all other Sales Tax audits (and share equally all related professional fees, interest, penalties and additions to tax) pertaining to the transfer of the Intel Transferred Assets to Holdings. With respect to Sales Taxes for which the Parties bear joint responsibility hereunder, neither Party shall settle any proposed adjustment to such Sales Taxes without the other Party's prior written approval, not to be unreasonably withheld or delayed.

(d) Cooperation. As to the Taxes for which Intel is liable hereunder or that arise in a Straddle Period, the Parties hereto agree to furnish or cause to be furnished to one another, upon request, as promptly as practicable, such information and assistance relating to the Intel Transferred Assets, the Intel Business and the Intel Transferred Entities as is reasonably necessary for the filing of all Tax Returns, the preparation for any audit by any taxing authority, and the prosecution or defense of any claim or Proceeding relating to any Tax Return. The Parties hereto shall cooperate with each other in the conduct of any audit or other Proceeding related to Taxes involving the Intel Business.

(e) Allocation of Intel Consideration among the Intel Transferred Assets. The Intel Consideration (including the Intel Transferred Liabilities to the extent treated as "amount realized" for United States federal income tax purposes) shall be allocated among the Intel Transferred Assets and the Intel Transferred Interests in accordance with Schedule 5.8(e) of the Intel ATA Disclosure Letter (as such allocation shall be determined following Closing and delivered by Intel to Holdings within 30 days following the Closing Date). Such schedule shall be prepared in a manner consistent with the Third Party Appraisal. Each of the Parties hereto agrees to report the transactions contemplated hereby for state, federal and foreign Tax purposes in accordance with such allocation of the Intel Consideration. Intel shall prepare Schedule 5.8(e) of the Intel ATA Disclosure Letter subject to Holdings' approval, which approval shall not be unreasonably withheld.

(f) Treatment of Indemnity Payments. The Parties shall treat all indemnification payments made under this Agreement as an adjustment to the Intel Consideration for applicable Tax purposes.

(g) Tax Dispute Resolution. If the Parties are unable to resolve any disputes regarding the content of Tax Returns for which Intel has a right of review pursuant to Section 5.8(a), 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 Parties, 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). The decision of such accounting firm shall be final and binding on the Parties, and the costs of such accounting firm shall be Holdings costs. If such Tax Returns become due (taking into account extensions of time to file, which Holdings shall seek as necessary to avoid the delinquent filing of its Tax Returns) they shall be filed as determined by Holdings and shall be amended and re-filed as required by the outcome of the referral to the accounting firm as provided herein.

5.9 Accounts Receivable. Following the Closing, (a) if Intel or any of its Subsidiaries receives any payment, refund or other amount that is an Intel Transferred Asset or is otherwise properly due and owing to Holdings or a Subsidiary of Holdings in accordance with the terms of this Agreement, Intel promptly shall remit, or shall cause to be remitted, such amount to Holdings or such Subsidiary and (b) if Holdings or any of its Subsidiaries receives any payment, refund or other amount that is an Intel Excluded Asset or is otherwise properly due and owing to Intel or any of its Subsidiaries in accordance with the terms of this Agreement, Holdings promptly shall remit, or shall cause to be remitted, such amount to Intel. Without limiting the foregoing, Holdings shall forward, or cause a Subsidiary of Holdings to forward, to Intel, immediately upon receipt thereof, any payments of Pre-Closing Accounts Receivable of Intel or any of its Subsidiaries, and Intel shall forward to Holdings, immediately upon receipt thereof, any payments of Post-Closing Accounts Receivable of Holdings or any of its Subsidiaries unless otherwise set forth in the Intel Transition Services Agreement. Following the Closing, the Parties shall cooperate in promptly advising customers to direct to the appropriate Party any future payments by such customers. In determining whether a payment received by either Party is a payment of an Account Receivable of Intel, on the one hand, or Holdings or a Subsidiary of Holdings, on the other hand, the receiving Party may rely on any invoice or contract number referred to on the payment or in correspondence accompanying such payment. To the extent any payment, refund or other amount received by Intel or Holdings or a Subsidiary of Holdings from a customer or other account debtor does not specify which outstanding invoice or receivable it is in payment of, such payment shall be applied to the earliest invoice outstanding with respect to indebtedness of such customer or other account debtor, except for those invoices which are subject to a dispute to the extent of such dispute. Following the Closing, Holdings will and will cause its Subsidiaries to provide such cooperation as Intel shall reasonably request in connection with Intel’s collection of outstanding Pre-Closing Accounts Receivable of Intel and its Subsidiaries.

5.10 Accounts Payable. To the extent that Holdings or any of its Subsidiaries receives any invoices for Pre-Closing Accounts Payable of Intel or any of its Subsidiaries or statements evidencing amounts owed by Intel or any of its Subsidiaries to another Person, Holdings will or will cause such Subsidiary to promptly deliver such documents to Intel. To the extent that Intel receives any invoices for Accounts Payable of Holdings or any of its Subsidiaries or statements evidencing amounts owed by Holdings or any of its Subsidiaries to another Person, Intel will

promptly deliver such documents to Holdings unless otherwise set forth in the Intel Transition Services Agreement.

#### 5.11 Employees.

(a) Employees. To the greatest extent permitted by Applicable Law, Holdings shall and shall cause its Subsidiaries to provide service credit for all periods of service by the Intel Transferred Employees under Holdings' and its Subsidiaries' employee policies and plans except to the extent such service credit would result in the duplication of benefit accrual for the same period of service. Holdings shall and shall cause its Subsidiaries to be responsible for all Liabilities, salaries, benefits and similar employer obligations that arise after Closing under Holdings' and its Subsidiaries' compensation and benefit plans and policies for all Intel Transferred Employees or pursuant to Section 2.3(d). In particular, except as otherwise provided in the Intel Secondment Agreement, Holdings shall and shall cause its Subsidiaries to be responsible for liabilities with respect to the termination of any Intel Transferred Employees by Holdings or any of its Subsidiaries after the Intel Employee Liability Date, including health care continuation coverage with respect to plans established or maintained by Holdings or any of its Subsidiaries after the Intel Employee Liability Date to the extent that the Intel Transferred Employees participate therein, and damages or settlements arising out of any claims of wrongful, constructive or illegal termination or dismissal by Holdings or any of its Subsidiaries following the Intel Employee Liability Date, and for complying with the requirements of all Applicable Laws with respect to any such termination by Holdings or any of its Subsidiaries after the Intel Employee Liability Date. Subject to the Intel Secondment Agreement and to Section 2.3(d) hereof, Intel shall be solely responsible for any liabilities or obligations with respect to Intel Transferred Employees under the Intel Employee Plans or the Intel Employee Agreements that arise following the Intel Employee Transfer Date.

(b) Non- U.S. Intel Business Employees. With respect to Intel Business Employees located outside the United States, each of Holdings and Intel agrees to comply, and to cause its respective Subsidiaries to comply, with all covenants, agreements and obligations set forth in Schedule 5.11(b) of the Intel ATA Disclosure Letter.

(c) Funded Employee Plans. To the extent that Holdings or a Subsidiary of Holdings is required under Applicable Law to assume Liabilities with respect to an Intel Funded Employee Plan relating to service of Intel Transferred Employees prior to the Intel Employee Liability Date, and unless such obligations are not otherwise satisfied at or prior to the Intel Employee Liability Date among Intel, Holdings (or a Subsidiary of Holdings) and the relevant Intel Transferred Employees, Intel shall, or shall cause the applicable Intel Subsidiary to, pay to Holdings or a Subsidiary of Holdings, as appropriate, an amount in cash or cash equivalents equal to such Liabilities as of the Intel



Employee Liability Date as determined in accordance with this Section 5.11(c) (the “Intel Funded Employee Plan Amount”). Intel shall, or shall cause the applicable Intel Subsidiary to, cause the Intel Funded Employee Plan Amount to be transferred to Holdings or such Subsidiary of Holdings as soon as practicable following the Intel Employee Liability Date, but in no event more than 15 days following the determination of the amount due hereunder. The Intel Funded Employee Plan Amount shall be determined in accordance with Applicable Law and the relevant provisions of the Intel Funded Employee Plan. To the extent required by Applicable Law or by the Intel Funded Employee Plan, Intel shall, or shall cause the applicable Intel Subsidiary to, require the actuary of each Intel Funded Employee Plan (each, an “Intel Actuary”) to determine, as of the Intel Employee Liability Date, the Intel Funded Employee Plan Amount for the relevant Intel Funded Employee Plan in accordance with FAS 158 on a projected benefit obligation basis based on actuarial assumptions no less favorable than those used in the most recent actuarial report prepared for the relevant Intel Funded Employee Plan. The actuarial calculations and assumptions of the Intel Actuary may be reviewed for accuracy by an actuary designated by Holdings (the “Holdings Actuary”). If the Intel Actuary and the Holdings Actuary cannot reach an agreement as to the proper determination for the Intel Funded Employee Plan Amount with respect to an Intel Funded Employee Plan, Intel and Holdings shall refer such matter to an independent third-party actuary (which actuary shall be mutually agreeable to Intel and Holdings) (the “Third Actuary”) for resolution. Promptly, but in no event later than 45 days after such referral, the Third Actuary shall review the Intel Actuary’s calculation of the relevant Intel Funded Employee Plan Amount and the Holdings Actuary’s objection and calculations with respect thereto, and shall provide each of Intel and Holdings a written statement of its decision as to the issues in dispute and the determination of the Intel Funded Employee Plan Amount. Such determination shall be final and binding for all purposes. The fees and expenses of the Intel Actuary and the Holdings Actuary shall be borne by Intel. The fees and expenses of the Third Actuary shall be borne equally by Intel and Holdings.

(d) Consultation Obligations. Intel and Holdings shall, and shall cause its Subsidiaries to, where and to the extent required by Applicable Law or by an applicable collective bargaining, collective agreement, recognition arrangement or other similar agreement or arrangement, inform and consult with employees, trade unions, works councils or other employee representative bodies regarding the transactions contemplated by this Agreement, including the offers of employment made pursuant to the Master Agreement.

(e) Non-Solicitation of Employees.

(i) Subject to Applicable Law, for two years following the Closing, without the prior written consent of Holdings, Intel shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, recruit or solicit any employee of Holdings or any of its Subsidiaries (collectively, for purposes of this Agreement, the “Numonyx Restricted Employees”) to leave his or her employment with Holdings or such Subsidiary.

(ii) Except as (A) may be otherwise provided herein, (B) otherwise agreed by Intel and Holdings, or (C) prohibited by Applicable Law, for two years following the Closing Date, Holdings shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, recruit or solicit (x) any employee of Intel or any of its Subsidiaries other than those Intel Business Employees who become

employed by Holdings or a Subsidiary of Holdings in accordance with the terms of the Master Agreement, (y) any Intel Business Employee who declines an offer of employment from or objects to his or her transfer to Holdings or any of its Subsidiaries, or (z) any employee of IM Flash Technologies, LLC, IM Flash Singapore, LLP, or any of their respective Subsidiaries, to leave his or her employment with Intel, IM Flash Technologies, LLC, IM Flash Singapore, LLP, or any such Subsidiary (collectively, for purposes of this Agreement, the “Intel ATA Restricted Employees”).

(iii) Neither the placement of employment advertisements or other general solicitation for employees not specifically targeted to any Numonyx Restricted Employee or Intel ATA Restricted Employee, as the case may be, by any means, including through the use of hiring agencies or through employees of each Party who are unaware of the prohibitions against the solicitation of the Numonyx Restricted Employees or Intel ATA Restricted Employees, as the case may be, shall be a recruitment or solicitation prohibited by this Section 5.11(e) provided that any such hiring agencies and employees are not instructed by persons who knew about the prohibition on the solicitation of such Restricted Employees to solicit for hire such Restricted Employees. If a Party (or any Subsidiary thereof) inadvertently violates the prohibition against the solicitation of Restricted Employees, such Party shall (or it shall cause its applicable Subsidiary to), as soon as it is aware it has committed a violation of this section, notify the other Party who formerly employed such Restricted Employee and either withdraw any offer to the solicited individual or ensure that such person, if hired, is restricted from working on, consulting on, or having any knowledge with respect to matters which are designated by written notice by the Party that formerly employed such employee in its reasonable discretion as competitively sensitive matters, in which event such inadvertent action shall not be deemed to be a breach of this Section 5.11(e) so long as there is no repetitive pattern of such actions.

(f) Holdings Employee Recruitment. For a period of six months following the Closing Date, Holdings agrees to notify Intel of any employment opportunities at Holdings or a Subsidiary of Holdings within a reasonable period of time before the placement of employment advertisements or other general solicitation, including the use of hiring agencies, with respect to such employment opportunities.

5.12 Protection of Privacy. The Customer Data of Intel has been collected by Intel over the Internet under the conditions set forth in the Intel Privacy Policy attached to Schedule 5.12 of the Intel ATA Disclosure Letter (the “Intel Privacy Policy”) and is transferred to Holdings and its Subsidiaries subject to the obligations set forth in the Intel Privacy Policy. Holdings covenants and agrees that it will not use, and will cause its Subsidiaries not to use, such Customer Data in any manner that conflicts with the terms of the Intel Privacy Policy.

5.13 Export Compliance. From and after the Closing Date, Holdings and each of its Subsidiaries shall comply at its own expense with all conditions and requirements imposed on Holdings and its Subsidiaries required to comply with all applicable U.S. Export Administration

Regulations and such other similar regulations, including any applicable export regulations of foreign jurisdictions, that are imposed on the Intel Transferred Assets. Holdings agrees that it will not, and will cause its Subsidiaries not to, export, either directly or indirectly, any Intel Product or associated technology or systems incorporating such Intel Product without first obtaining any required license or other approval from the appropriate host Governmental Authority with appropriate authority.

5.14 Satisfaction of Intel Pre-Closing Product Obligations. After the Closing, Holdings agrees to satisfy and to cause its Subsidiaries to satisfy any and all Intel Pre-Closing Product Obligations. Unless otherwise agreed by the Parties in the Transaction Documents, Holdings shall, or shall cause a Subsidiary of Holdings to, on a monthly basis, following the month in which the transactions occur, or any other periodic basis as agreed by the Parties, deliver to Intel a written statement of costs reasonably incurred by Holdings and its Subsidiaries in satisfying any such Intel Pre-Closing Product Obligations, which statement shall set forth all such Intel Pre-Closing Product Obligations satisfied by Holdings and its Subsidiaries during such period. Promptly following receipt of such statement, Intel shall reimburse Holdings or a Subsidiary of Holdings, as appropriate, for all such costs.

5.15 Additional Intel Financial Statements.

(a) For 12 months following the Closing Date (or if later, the date of completion of the audit of the Intel annual financial statements for the year in which the Closing Date occurs), Intel shall, in good faith, use commercially reasonable efforts to assist Holdings or Numonyx with its preparation of such financial statements, for such periods prior to the Closing Date as may be required for Holdings or Numonyx, as the case may be, to undertake a registered public offering of debt securities or Ordinary Shares, as the case may be, it being understood that in connection with any such registered offering Holdings or Numonyx, as applicable, shall use commercially reasonable efforts to obtain waivers from certain financial statement requirements, *provided* that any failure by Holdings or Numonyx, as the case may be to obtain any such waiver shall not relieve Intel from its obligations under this Section 5.15(a). Notwithstanding the foregoing, nothing herein shall obligate Intel to provide any audited financial statement or information to Holdings or a Subsidiary of Holdings or to submit to an audit by Holdings' or any of its Subsidiaries' auditors of any financial statement or information or books and records of Intel.

(b) By the earlier of (i) 18 months after the Closing Date and (ii) as reasonably required in connection with the refinancing of the Contemplated Financing, Intel shall deliver to Numonyx an audited statement of selected assets and an audited statement of revenues and direct expenses for the Intel Business as of and for the year ended December 29, 2007 (the "Intel Business 2007 Financial Statements"). The Intel Business 2007 Financial Statements shall be prepared to report the Intel Business as it has been reported in Intel's consolidated financial statements applying applicable GAAP and following the presentation basis adopted by Intel in its consolidated financial statements.

5.16 Settlement of Claims. Intel shall not settle, or make any binding offer to settle, any material Claim or Proceeding relating to the Intel Business unless such settlement would not

encumber any assets of Holdings or any of its Subsidiaries, impose any obligation or other Liability on Holdings or any of its Subsidiaries, impose any restriction that would apply to Holdings or any of its Subsidiaries or the conduct of Holdings' or its Subsidiaries' business, or include any acknowledgment of validity, enforceability, infringement, or Claim interpretation with regard to any of the Intellectual Property relating to such Claim or Proceeding.

5.17 Retained Equipment; D2 Equipment; Pudong Equipment.

(a) From and after the Closing Date, Intel shall, and shall cause its Subsidiaries to: (i) retain physical possession of the D2 Equipment until the earlier of (A) the date upon which such D2 Equipment is removed therefrom pursuant to a Numonyx Removal Notice (as defined below) and (B) 60 days after completion of sorted wafer manufacturing for Holdings and its Subsidiaries using the D2 Equipment and the receipt by Holdings from Intel of written notice of such completion (such date, the "D2 Removal Date"); (ii) retain physical possession of the Retained Equipment at the facilities where they are located, and to store, for the benefit of Holdings and its Subsidiaries, such Retained Equipment, or portion thereof, until removed by Holdings or one of its Subsidiaries at such time as is mutually agreed by the Parties (the "Retained Equipment Removal Date" and the D2 Removal Date each may be referred to herein as a "Removal Date") in accordance with the terms and conditions set forth herein; and (iii) retain (A) legal title of the Intel Pudong Option Property until such title is transferred pursuant to and in accordance with the terms of the Intel Pudong Services Agreement and (B) both physical possession of and legal title to the Pudong Equipment until possession is transferred pursuant to and accordance with the terms of the Intel Pudong Services Agreement; legal title to the Pudong Equipment shall be transferred in accordance with Schedule 2.1(a)(ii) as soon as practicable upon written request of Numonyx, in accordance with the terms and conditions set forth herein; *provided, however*, that in the event that any Governmental Approval is required for the removal of any of such D2 Equipment, Holdings and Intel shall use their commercially reasonable efforts to obtain such Governmental Approval as soon as practicable after the Closing Date, and in the event that such Governmental Approvals are not obtained within 45 days prior to the D2 Removal Date set forth above, the D2 Removal Date shall be extended to that date which is 45 days after all such Governmental Approvals have been obtained; *provided, further*, that in the event that any Governmental Approval is required for the removal of any of such Retained Equipment, Holdings and Intel shall use their commercially reasonable efforts to obtain such Governmental Approval as soon as practicable after the Closing Date or as otherwise agreed by Intel and Holdings.

(b) Holdings shall and shall cause its Subsidiaries to use commercially reasonable efforts to make all arrangements necessary to ensure that (i) the Retained Equipment is removed from the premises of Intel and its Subsidiaries as soon as reasonably practicable after the Closing, unless otherwise agreed by Intel and Holdings, (ii) the D2 Equipment is removed from the premises of Intel and its Subsidiaries as soon as reasonably practicable following the completion of the applicable sorted wafer manufacturing set forth in Section 5.17(a) and the receipt of notice thereof from Intel and in any event prior to the D2 Removal Date; and (iii) the Pudong Equipment is removed from the premises of Intel

and its Subsidiaries, as appropriate, pursuant to and in accordance with the terms of the Intel Pudong Services Agreement.

(c) From and after the Closing Date until 15 days prior to each applicable Removal Date, Holdings or a Subsidiary of Holdings may notify Intel in writing of Holdings' or such Subsidiary's intention to remove the D2 Equipment or the Retained Equipment from the premises of Intel or its Subsidiaries. Each such notice (a "Numonyx Removal Notice") shall describe in reasonable detail the arrangements for the removal and transportation of the D2 Equipment or the Retained Equipment, as the case may be, including (i) the dates on which Holdings or a Subsidiary of Holdings proposes to begin and complete the removal of the D2 Equipment or the Retained Equipment, (ii) the identity of any third party contractors that Holdings or such Subsidiary of Holdings proposes to engage in connection therewith and (iii) with respect to any D2 Equipment, a reasonable estimate of the third party costs expected to be incurred by Holdings or such Subsidiary in connection therewith.

(d) All reasonable and documented third party costs of removing D2 Equipment from the premises of Intel or its Subsidiaries and transporting D2 Equipment to the premises of Holdings or its Subsidiaries shall be borne by Intel. Holdings or a Subsidiary of Holdings shall remove the D2 Equipment in its entirety from the premises of Intel and its Subsidiaries prior to the Removal Date applicable thereto. The removal of the D2 Equipment shall be effected during regular business hours in a manner reasonably intended to minimize disruption and without causing damage to the affected Intel facility. Intel shall have the right to approve in advance (which approval shall not be unreasonably withheld or delayed) any third party contractors that Holdings or a Subsidiary of Holdings proposes to engage to complete such removal or transportation. In the event that any D2 Equipment is not removed from the premises of Intel or its Subsidiaries prior to the Removal Date applicable thereto, Intel may treat such D2 Equipment as abandoned property and may have such D2 Equipment removed from the applicable Intel facility or may sell such D2 Equipment and remit the proceeds of such sale (net of all direct and indirect costs of sale and expenses incurred by Intel and its Subsidiaries) to Holdings.

(e) As promptly as practicable following the Closing Date, Holdings shall or shall cause one of its Subsidiaries to label or otherwise clearly identify all Retained Equipment as equipment that is owned by Holdings or such Subsidiary. Intel shall provide Holdings and its Subsidiaries reasonable access to the Retained Equipment in order to allow Holdings and its Subsidiaries to so label the Retained Equipment.

(f) Subject to the terms and conditions of the Intel Ancillary Agreements, Holdings and its Subsidiaries shall be responsible for any and all maintenance or repair of the Retained Equipment required on and after the Closing Date. Intel shall provide Holdings and its Subsidiaries reasonable access to the Retained Equipment in order to inspect it and to perform such maintenance or repair.

(g) Risk of loss or damage to the Retained Equipment shall transfer to Holdings and its Subsidiaries effective as of the Closing Date; *provided, however*, that Intel shall use commercially reasonable efforts to prevent damage to the Retained Equipment and to

provide reasonable notice to Holdings or a Subsidiary of Holdings of any damage to the Retained Equipment of which Intel becomes aware.

(h) All reasonable and documented third party costs of removing Retained Equipment from the premises of Intel or its Affiliates and transporting Retained Equipment to the premises of Holdings or its Subsidiaries shall be borne by Holdings or one of its Subsidiaries. The removal of the Retained Equipment shall be effected during regular business hours in a manner reasonably intended to minimize disruption and without causing damage to the affected Intel facility. Intel shall have the right to approve in advance (which approval shall not be unreasonably withheld or delayed) any third party contractors that Holdings or a Subsidiary of Holdings proposes to engage to complete such removal or transportation.

5.18 Master Agreement Covenants. Holdings and Numonyx agree to be bound by and shall be third party beneficiaries of the following Sections of the Master Agreement: Section 4.5 (Press Releases), Section 4.8 (Tax Matters), Section 4.9 (Operations of the Intel Business Prior to the Closing), Section 4.10 (Operations of the ST Business Prior to the Closing), Section 4.12 (Additions to and Modifications of the Schedules), Section 4.14 (Notices of Certain Intel Events), Section 4.15 (Notices of Certain ST Events), Section 4.17 (Holdings and Numonyx Tax Election), Section 4.19 (Cooperation with Financing), Section 4.21 (Hynix JV Matters), Section 4.22 (Facility Transfer Term Sheets), Section 4.25 (ST Litigation), Section 4.26 (Intel Litigation) and Section 4.28 (Further Assurances) of the Master Agreement as though it were a party thereto.

5.19 Further Assurances. Each Party agrees to execute and deliver, or cause to be executed and delivered, such other documents, certificates, agreements and other writings and to take, or cause to be taken, such other commercially reasonable actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, in the event that Intel makes a revision to a schedule of the Intel ATA Disclosure Letter after the Closing pursuant to Section 4.12(c) of the Master Agreement, Intel and Holdings shall execute and deliver, or shall cause its respective applicable Subsidiary to execute and deliver, such instruments of transfer and assignment and assumption agreements as are reasonably necessary to effect the transfer of such Intel Transferred Assets or Intel Transferred Liabilities, or to reflect the removal of an asset which is not an Intel Transferred Asset or Intel Transferred Liability, as the case may be.

5.20 Outstanding Checks; Bank Accounts.

(a) Intel shall cause all checks written but not cashed before the Closing in respect of obligations of any Intel Transferred Entity to be paid.

(b) Intel shall cause all bank accounts of the Intel Transferred Entities to have zero balances on the Closing Date.

5.21 Release of Liens. On the Closing Date, the Intel Transferors shall deliver the Intel Transferred Assets to Holdings and its Subsidiaries free and clear of Liens, other than Permitted Liens, except as otherwise provided herein.

**ARTICLE VI  
INDEMNIFICATION**

6.1 General Survival. The representations and warranties of the Parties contained in this Agreement and the covenants set forth in Section 4.9 of the Master Agreement shall survive the Closing for a period of 12 months after the Closing Date; *provided, however* that (a) representations and warranties set forth in Section 3.10 (Tax Matters) shall survive until the expiration of the statute of limitations for the collection of the Tax that is the subject of such representation or warranty, (b) representations and warranties set forth in each of Section 3.2 (Authorization and Enforceability), Section 3.12(a) (Pension Plans), and Section 3.22(a) and (b) (Organization and Capitalization of the Intel Transferred Entities) shall survive until the expiration of the applicable statute of limitations, (c) representations and warranties set forth in Section 3.15 (Environmental Matters) shall survive until the date that is 10 years following the Closing Date, and (d) any claim arising out of the fraudulent misrepresentation of Intel contained in this Agreement or any other Transaction Document shall survive until the expiration of the applicable statute of limitations. In addition, any indemnity with respect to any Intel Pre-Closing Environmental Liability described in Section 2.4(k) hereof shall survive until the date that is 10 years following the Closing Date and shall thereupon expire. Upon such expiration, unless written notice of a claim for indemnification based on such representation, warranty, covenant or indemnity specifying in reasonable detail the facts on which the claim is based shall have been delivered to the Indemnitor prior to the expiration of such representation, warranty, covenant, or indemnity, such representation, warranty, covenant or indemnity shall be deemed to be of no further force or effect, as if never made, and no action may be brought based on the same, whether for indemnification, breach of contract, tort or under any other legal theory. All covenants and agreements of the Parties otherwise set forth in this Agreement with respect to Excluded Liabilities or actions of the Parties following the Closing shall survive indefinitely to the extent necessary to give effect to their terms.

6.2 Indemnification.

(a) Indemnification Provisions for Holdings and Numonyx. Subject to the provisions of Section 6.1, from and after the Closing Date, the Holdings Indemnitees shall be indemnified and held harmless by Intel from and against and in respect of any and all Losses (as defined below) incurred by any Holdings Indemnitee resulting from:

(i) any inaccuracy or breach of any of Intel's representations or warranties contained in this Agreement, the Intel Entity Capitalization and Assignment Agreement, or in the certificates furnished to Holdings pursuant to Sections 5.2(a) and 5.3(a) of the Master Agreement (disregarding the qualifications as to Intel Material Adverse Effect expressly set forth in such certificates in accordance with Sections 5.2(a) and 5.3(a));

(ii) any breach of any covenant or agreement made or to be performed by Intel pursuant to this Agreement, the Intel Entity Capitalization and Assignment Agreement, or any of the Sections of the Master Agreement set forth in Section 5.18 of this Agreement;

(iii) any failure of Intel to satisfy any Intel Excluded Liabilities; and

(iv) any Taxes or expenses required to be paid by Intel under this Agreement.

(b) Indemnification Provisions for Intel. Subject to the provisions of Section 6.1, from and after the Closing Date, the Intel Indemnitees shall be indemnified and held harmless by Holdings and Numonyx from and against and in respect of any and all Losses (as defined below) incurred by any Intel Indemnitee, resulting from:

(i) any inaccuracy or breach of any representations or warranties made by Holdings or Numonyx in this Agreement or the Intel Entity Capitalization and Assignment Agreement, other than any such inaccuracy or breach that results from any action that (A) Holdings or any of its Affiliates is required to take hereunder or thereunder or (B) Intel has approved under the Master Agreement;

(ii) any breach of any covenant or agreement made or to be performed by Holdings or Numonyx pursuant to this Agreement or the Intel Entity Capitalization and Assignment Agreement;

(iii) any failure of Holdings or an Affiliate of Holdings to satisfy any Intel Transferred Liabilities, other than the Intel Excluded Liabilities; and

(iv) any Taxes or expenses required to be paid by Holdings, Numonyx or any of their Affiliates under this Agreement.

(c) For purposes of this Agreement, the term “Indemnitee” shall mean either a Holdings Indemnitee or an Intel Indemnitee, as the case may be, and the term “Indemnitor” shall mean either Holdings or Intel, as the case may be.

(d) Notwithstanding the above, Losses shall not include expenses incurred in connection with investigations unless a claim is made by a third party against the Indemnitee.

(e) No Holdings Indemnitee shall be entitled to indemnification for any Losses covered by Section 6.2(a)(i) until the aggregate amount of all such Losses of the Holdings Indemnitees shall exceed \$15,000,000 (the “Intel ATA Basket”), at which time all such Losses incurred in excess of the Intel ATA Basket shall be subject to indemnification by the relevant Indemnitor hereunder. The Intel ATA Basket shall not apply to Losses covered by Section 3.2 (Authorization and Enforceability), Section 3.10 (Tax Matters), Section 3.12(a) (Pension Plans), Section 3.15 (Environmental Matters), Section 3.22(a) and (b) (Organization and Capitalization of the Transferred Entities) or Sections 6.2(a)(i)-(iv). No Intel Indemnitee shall be entitled to indemnification for any Losses covered by Section 6.2(b)(i) until the aggregate amount of all such losses of the Intel Indemnitees shall exceed \$15,000,000 (“Holdings ATA Basket”), at which time all such losses incurred in excess of the Holdings ATA Basket shall be subject to indemnification by the relevant Indemnitor hereunder. The Holdings ATA Basket shall not apply to



Losses covered by Sections 6.2(b)(ii)-(iv).

(f) The amount of any Losses otherwise recoverable under this Section 6.2 shall be reduced by (i) any amounts which the Indemnitees actually receive under insurance policies, net of all reasonable and documented costs and expenses of recovery, the Parties hereby acknowledging and agreeing that as soon as practicable after becoming aware of such Losses and in any event prior to payment of any amount of Losses otherwise recoverable under this Section 6.2, the Indemnitee must first seek reimbursement for any and all Losses from any applicable insurance coverage (and that any compensation provided under this Agreement is not to be deemed insurance for any purpose), and (ii) any reduction in Tax otherwise actually payable by the Indemnitees (or their Subsidiaries) (net of related Tax and out of pocket costs incurred in connection with such reduction) with respect to the taxable year of such Persons in which the payment of such indemnity is due or a prior taxable year, including refunds of Taxes (net of such Tax and other out-of-pocket costs) previously paid by such Persons with respect to such taxable years to the extent the claim for refund may be filed in such years.

(g) Notwithstanding anything to the contrary in Section 6.2(a), Losses for which a Holdings Indemnitee may claim indemnification under this Agreement shall not include Taxes arising in Post-Closing Tax Periods, determined in the manner provided in Section 5.8(b), except for (i) interest, penalties and additions to Tax accrued with respect to Taxes arising in a Pre-Closing Tax Period, (ii) Losses arising from a breach of the representation set forth in Section 3.10(d)(vi), and (iii) Losses for Taxes that are allocated to Intel pursuant to Section 5.8.

(h) For any additions or modifications to the schedules to the Intel ATA Disclosure Letter made by Intel under Section 4.12(d) of the Master Agreement (i) to correct inaccuracies of the Specified Intel Representations (including those representations and warranties which are expressed with respect to a date prior to the date of the Master Agreement) for facts, events or circumstances occurring prior to or existing on and as of the date of the Master Agreement, and, in the case of a representation or warranty made to the Knowledge of Intel, of which Intel had Knowledge on such date), (ii) to reflect any facts, events or circumstances which resulted from a breach of Section 4.9 of the Master Agreement, or (iii) to update, correct or otherwise modify any of the representations and warranties set forth in Section 3.2 (Authorization and Enforceability), Section 3.4 (Non-contravention), Section 3.7 (Litigation), Section 3.9 (Compliance with Applicable Laws), Section 3.10 (Tax Matters), Section 3.11 (Intellectual Property), Section 3.13 (Financial Information), Section 3.14 (Absence of Certain Changes), Section 3.17 (Intel Transferred Assets), Section 3.20 (Inventories), Section 3.21 (Advisory Fees), Section 3.22 (Transferred Entities and Transferred Interests), and Section 3.23 (Investment Representations), for any reason, then, in each case, the Holdings Indemnitees shall be entitled to indemnification therefor pursuant to, and subject to the limitations set forth in this Article VI, to the same extent as if such additions and modifications had not been made.

### 6.3 Manner of Indemnification.

(a) Each indemnification claim shall be made only in accordance with this Article VI.

(b) If an Indemnitee wishes to make a claim for Losses under Article VI of this Agreement, Indemnitee shall deliver a Notice of Claim to the applicable Indemnitor promptly after becoming aware of the facts giving rise to such claim. The Notice of Claim shall (i) specify in reasonable detail the nature of the claim being made, and (ii) state the aggregate dollar amount of such claim.

(c) Following receipt by an Indemnitor of a Notice of Claim, the Parties shall promptly meet to agree on the rights of the respective Parties with respect to each of such claims. If the Parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by both Parties and amounts agreed upon shall be promptly paid. Any unresolved dispute between the Parties shall be resolved in accordance with Section 7.10 and Section 7.11 and the other applicable provisions of this Agreement.

6.4 Third-Party Claims. If Holdings or Numonyx becomes aware of a claim of a third party (including for all purposes of this Section 6.4, any Governmental Authority) that Holdings or Numonyx believes, in good faith, may result in a claim by it or any other Holdings Indemnitee against Intel, Holdings or Numonyx shall notify Intel of such claim as promptly as practicable; *provided*, that any failure to so notify Intel shall not relieve Intel of its obligations hereunder, except to the extent such failure shall have materially adversely prejudiced Intel. Intel shall have the right, but not the duty, to assume and conduct the defense of such claim at its expense; *provided, however*, that Intel may not assume control of the defense of a suit or proceeding involving criminal liability. Intel shall conduct such defense in a commercially reasonable manner, and shall be authorized to settle any such claim without the consent of any Holdings Indemnitee, *provided, however*, that: (a) Intel shall not be authorized to encumber any assets of any Holdings Indemnitee or agree to any restriction that would apply to any Holdings Indemnitee or the conduct of any Holdings Indemnitee's business; (b) Intel shall have paid or caused to be paid any amounts arising out of such settlement; (c) a condition to any such settlement shall be a complete release of Holdings and any other Holdings Indemnitee against whom such claim has been made with respect to such third party claim; and (d) Intel shall not be authorized to settle any claim that would reasonably be expected to have a material effect on a Tax liability of Holdings or Numonyx, as the case may be, that is not subject to indemnification by Intel hereunder without the consent of Holdings or Numonyx, as the case may be, which consent shall not be unreasonably withheld or delayed. With respect to any claim for which Intel assumes the defense of Holdings or Numonyx, Holdings or Numonyx, as applicable, shall be entitled to participate in (but not control) the defense of such third party claim, with its own counsel and at its own expense, and Holdings or Numonyx, as the case may be, shall take such action as Intel shall reasonably request to assist Intel in the defense of any such third party claim, *provided* that Intel shall reimburse Holdings or Numonyx, as applicable, for any reasonable out-of-pocket expenses incurred in taking any such requested action. If Intel does not assume the defense of any third party claim in accordance with the provisions hereof, Holdings and Numonyx may defend such third party claim in a commercially reasonable manner and may settle such third party claim after giving written notice of the terms thereof to Intel, and such legal expenses shall be indemnifiable Losses hereunder to the extent that Holdings or Numonyx is determined to be entitled to indemnification hereunder for such third party claim.

6.5 Exclusive Remedy and Waiver and Release of Certain Claims.

(a) Notwithstanding any other provision of this Agreement to the contrary, the provisions of this Article VI shall be the sole and exclusive remedy for monetary damages of the Indemnitees from and after the Closing Date for any Losses arising under this Agreement or relating to the transactions contemplated by this Agreement, including claims of breach of any representation or warranty in this Agreement or any covenant set forth in Section 4.9 of the Master Agreement; *provided, however*, that the foregoing clause of this sentence shall not be deemed a waiver by any Party of any right to specific performance or injunctive relief but shall be deemed a waiver of any rights of rescission. Notwithstanding any other provision of this Agreement, (i) the maximum aggregate liability of Intel to Holdings Indemnitees pursuant to this Article VI or otherwise under this Agreement, Applicable law or otherwise (other than Uncapped Intel Losses) shall be limited to \$86,400,000 (the “Intel ATA Cap”); and (ii) the maximum aggregate liability of Holdings and its Subsidiaries to the Intel Indemnitees for Losses pursuant to this Article VI or otherwise under this Agreement (other than with respect to Losses pursuant to a breach of Section 4.2 (Authorization and Enforceability) and Section 4.4 (Capitalization) and Losses pursuant to Section 6.2(b)(iii)), Applicable Law or otherwise shall be limited to the Intel ATA Cap. Nothing in this Agreement limits or otherwise affects in any way the rights and remedies of either Party with respect to causes of action arising under the Intel Intellectual Property Agreement, the Intel Facility Transfer Agreements and the Intel Transition Services Agreement, or any rights and remedies of Intel or Holdings or their respective Affiliates vis-à-vis any Person other than Intel or Holdings or their respective Affiliates with respect to any infringement or misappropriation of any Intellectual Property of Intel or Holdings or any Affiliate of Holdings, as the case may be (including any right of Intel or Holdings or any of its Subsidiaries to seek equitable or injunctive relief in connection therewith), all of which rights and remedies are expressly reserved. Notwithstanding the foregoing, the existence of this Section 6.5 and the rights and restrictions set forth in this Article VI do not limit any other potential remedies of the Indemnitees with respect to fraud by any Party.

(b) Except with respect to the specific remedies identified in Section 6.5(a) above, the Parties hereby waive and release any and all claims, causes of action, and rights as against one another for the transactions contemplated by this Agreement, including the assets and liabilities that are allocated herein, based upon statute or common law. This waiver and release specifically includes, without in any way limiting the scope of the foregoing waiver and release, any claims the Parties may have against one another based upon the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. or any other Applicable Law under which the Parties or their Affiliates would otherwise have any cause of action against one another.

6.6 Subrogation. If the Indemnitor makes any payment under this Article VI in respect of any Losses, the Indemnitor shall be subrogated, to the extent of such payment, to the rights of the Indemnitee against any insurer or third party with respect to such Losses; *provided, however*, that the Indemnitor shall not have any rights of subrogation with respect to the other Party hereto or any of its Affiliates or any of its or its Affiliates’ officers, directors, agents or employees.

6.7 Damages. Notwithstanding anything to the contrary elsewhere in this Agreement or any other Transaction Document, no Party (or its Affiliates) shall, in any event, be liable to the other Party (or its Affiliates) for any consequential damages, including, but not limited to, loss of revenue or income, cost of capital, or loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement. Each Party agrees that it will not seek punitive damages as to any matter under, relating to or arising out of the transactions contemplated by this Agreement or the other Transaction Documents.

6.8 Environmental Indemnification Procedures.

(a) Intel, Holdings and Numonyx agree that the Indemnitor shall have the sole right to disclose, report, further investigate, negotiate, perform and settle any Intel Facility Environmental Liability or conduct any Remedial Action in connection therewith for which such Indemnitor may have liability hereunder, and the Indemnitee will provide the Indemnitor access and any other rights, as necessary, to the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, or any other real property under the Indemnitee's control for purposes of investigating and performing any such Remedial Action. Such terms of access shall provide for reasonable protections to the Indemnitee's operations to minimize disruption and protect its employees. Nonetheless, if at any time following the Closing Date, the Indemnitor has not taken action to disclose, report, further investigate, negotiate, perform and settle any Intel Facility Environmental Liability or conduct any Remedial Action in connection therewith for which such Indemnitor may have liability hereunder, to the reasonable satisfaction of the Indemnitee, then the Indemnitee will have the right, after first providing written notice to the Indemnitor and a reasonable period for the Indemnitor to respond (at a minimum 30 days) and subject to the rights of the Indemnitor set forth in Section 6.8(c) below, to disclose, report, further investigate, negotiate, perform and settle any Intel Facility Environmental Liability or conduct any Remedial Action in connection therewith; *provided* that the Indemnitor's duty to indemnify under Section 6.1 of the Agreement for Intel Facility Environmental Liabilities shall not apply to the extent that the Indemnitee's actions fail to comply with paragraph (b), below. Without limiting the generality of the foregoing, in connection with any action taken pursuant to the third sentence of this Section 6.8(a) the Indemnitee will, subject to the rights of the Indemnitor pursuant to the terms of Section 6.8(c) below, have the right to: report the results of any testing to the appropriate Governmental Authorities if required by an applicable Environmental Law; enter the property into a voluntary remediation or similar program; take whatever steps are necessary to obtain a NFA Letter from the appropriate Governmental Authorities or, in the event such Governmental Authorities do not provide a NFA Letter in comparable situations or in the event they refuse to do so, comply with any obligations of any Applicable Law, including any Environmental Law, in effect at the time; and respond to any claim by any third party with respect to any Intel Facility Environmental Liability; *provided* that the Indemnitor's duty to indemnify under Section 6.1 of the Agreement for Intel Facility Environmental Liabilities shall not apply to the extent that the Indemnitee's actions fail to comply with paragraph (b), below.

(b) The Parties agree that any Remedial Action undertaken by Intel or Holdings or any Subsidiary of Holdings to obtain any NFA Letter (to the extent permitted by the

Governmental Authority issuing such NFA Letter) or comply with any Applicable Law, including any Environmental Law, in effect at the time: shall employ a reasonably cost-effective method under the circumstances, based on the use of the property for industrial (as opposed to residential or commercial) purposes, shall not exceed the least stringent requirement imposed by any clearly applicable Environmental Laws in effect at the time, including as applicable, within the context of obtaining a NFA Letter or complying with Applicable Law, shall make reasonable use of institutional and engineering controls reasonably acceptable to both Holdings and its Subsidiaries, on the one hand and Intel, on the other hand, such as deed restrictions, signs, fencing, buffers, and controls, to the extent permitted by Governmental Authorities; *provided* that such institutional and engineering controls shall not (i) unreasonably restrict or limit the industrial activities currently being performed and those which Intel or Holdings or any Subsidiary of Holdings expects to perform on any Intel Transferred Owned Real Property or any Intel Transferred Leased Real Property or associated services shared in any fashion between Intel and Holdings or an Affiliate of Holdings, or (ii) fail to address a material risk of off-site migration of any Hazardous Substances, and shall take advantage of applicable risk assessment principles, where practicable, set forth in applicable Environmental Laws in effect at the time.

(c) After the Closing, on any Remedial Action that either Party undertakes pursuant to the third sentence of Section 6.8(a), the acting Party shall:

(i) cooperate with the other Party as much as possible, including, but not limited to, keeping the other Party reasonably informed related to the progress of such matters (including, providing the other Party with copies of material plans, reports and external correspondence), permitting the other Party to be present at the property during, and providing Intel reasonable advance notice prior to, the execution of any significant Remedial Actions (including testing), and ensuring that the other Party is provided reasonable advance notice of any scheduled voice or in-person conferences with regulators or other third parties;

(ii) ensure that such conferences are held on dates, and at places and times, mutually convenient to the other Party, that the other Party is provided all relevant information relating to such conferences, as and when generated or received by the acting Party (but in all events reasonably far in advance of any conference to permit the other Party's informed participation therein), and that Intel and its agents are afforded a reasonable opportunity to participate therein. The Parties shall use reasonable efforts, including by making their respective agents available on a mutually convenient basis, to work together on the strategy and conduct of such conferences; and

(iii) ensure that the other Party is given the opportunity to obtain duplicate soil, groundwater and other samples if such samples are taken in connection with any Remedial Action (including testing).

**ARTICLE VII  
MISCELLANEOUS**

7.1 Notices. All notices and other communications pursuant to this Agreement shall be in writing and shall be deemed given if delivered personally, telecopied, sent by nationally-recognized overnight courier or mailed by U.S. registered or certified mail (return receipt requested), postage prepaid, to the Parties at the addresses set forth below or to such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice or communication shall be deemed to have been delivered and received (a) in the case of personal delivery, on the date of such delivery, (b) in the case of telecopier, on the date sent if confirmation of receipt is received and such notice is also promptly mailed by registered or certified mail (return receipt requested), (c) in the case of a nationally-recognized overnight courier in circumstances under which such courier guarantees next Business Day delivery, on the next Business Day after the date when sent and (d) in the case of mailing, on the fifth Business Day following that on which the piece of mail containing such communication is posted to the address provided herein or to such other address as the Person to whom notice is given may have previously furnished to the others in writing in the manner set forth above. Any Party hereto may give any notice, request, demand, claim or other communication hereunder using any other means (including ordinary mail or electronic mail), but no such notice, request, demand, claim or other communication shall be deemed to have been duly given unless and until it actually is received by the individual for whom it is intended. Notices to Parties pursuant to this Agreement shall be given:

if to Intel, to:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: Treasurer  
Telephone: (408) 765-8080  
Fax: (408) 765-6038

with a copy to:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: General Counsel  
Telephone: (408) 765-8080  
Fax: (408) 653-8050

and a copy to:

Intel Corporation  
2200 Mission College Boulevard  
Santa Clara, CA 95054  
Attention: Portfolio Manager

M/S: RN6-59  
Facsimile: (408) 653-8050  
portfolio.manager@intel.com

and a copy to (which shall not constitute notice to Intel):

Gibson, Dunn & Crutcher LLP  
1881 Page Mill Rd.  
Palo Alto, CA 94304  
Attention: Russell C. Hansen  
Telephone: (650) 849-5300  
Fax: (650) 849-5333

if to Holdings or Numonyx, to:

Numonyx B.V.  
A-ONE Biz Center  
Z.A. Vers la Piece  
Rte de l'Etraz  
1180 Rolle  
Switzerland  
Attention: Chief Financial Officer  
Telephone: +41 21 822 37 05  
Fax: +41 21 822 37 01

with a copy to:

Numonyx B.V.  
A-ONE Biz Center  
Z.A. Vers la Piece  
Rte de l'Etraz  
1180 Rolle  
Switzerland  
Attention: General Counsel  
Telephone:  
Fax:

with a copy to (which shall not constitute notice to Holdings or Numonyx):

ST Microelectronics N.V.  
Chemin du Champ-des-Filles, 39  
1228 Plan-les-Ouates  
Geneva, Switzerland  
Attention: Pierre Ollivier, Group Vice President and General Counsel  
Telephone: 41 22 929 58 76  
Fax: 41 22 929 59 06

with copies to (which shall not constitute notice to Holdings,  
Numonyx or ST)

ST Microelectronics N.V.  
1310 Electronics Drive  
Mail Station  
Carollton, TX 75006  
Attention: Steven K. Rose, Vice President, Secretary and General  
Counsel  
Telephone: (972) 466-6412  
Fax: (972) 466-7044

Shearman & Sterling LLP  
525 Market Street  
San Francisco, CA 94105  
Attention: John D. Wilson  
Telephone: (415) 616-1100  
Facsimile: (415) 616-1199

with copies to (which shall not constitute notice to Holdings or  
Numonyx)

Francisco Partners  
2882 Sand Hill Road  
Suite 289  
Menlo Park, CA 94025  
Attention: Dipanjan Deb  
Telephone: (650) 233-2900  
Fax: (650) 233-2999

Francisco Partners  
100 Pall Mall  
4th Floor  
London SW1 YSNG  
United Kingdom  
Attention: Phokion Potamianos  
Telephone: 44 0 207 907 8600  
Facsimile: 44 0 207 907 8650

with a copy to (which shall not constitute notice to Holdings,  
Numonyx or FP)



Davis Polk & Wardwell  
1600 El Camino Real  
Menlo Park, CA 94025  
Attention: William M. Kelly  
Martin A. Wellington  
Telephone: (650) 752-2000  
Facsimile: (650) 752-2112

7.2 Amendments; Waivers.

(a) Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by all Parties, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(b) No waiver by a Party of any default, misrepresentation or breach of a warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of a warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent occurrence. No failure or delay by a Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided under Applicable Law.

7.3 Expenses. Except as set forth in Section 5.8(c), hereof and Section 7.3 of the Master Agreement, all costs and expenses incurred in connection with this Agreement and the other Transaction Documents and in closing and carrying out the transactions contemplated hereby and thereby shall be paid by the Party incurring such cost or expense.

7.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs, personal representatives and permitted assigns. No Party hereto may transfer or assign either this Agreement or any of its rights, interests or obligations hereunder, whether directly or indirectly, by operation of law, merger or otherwise, without the prior written approval of each other Party. No such transfer or assignment shall relieve the transferring or assigning Party of its obligations hereunder if such transferee or assignee does not perform such obligations.

7.5 Governing Law. This Agreement shall be construed in accordance with and this Agreement and any disputes or controversies related hereto shall be governed by the internal laws of the State of New York without giving effect to the conflicts of laws principles thereof that would apply the laws of any other jurisdiction.

7.6 Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts and the signatures delivered by telecopy, each of which shall be an original, with the same effect as if the signatures were upon the same instrument and delivered in person. This

Agreement shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Parties.

7.7 Entire Agreement. This Agreement (including the schedules and exhibits referred to herein, which are hereby incorporated by reference), the other Transaction Documents and the Confidentiality Agreements constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, understandings and negotiations, both written and oral, express or implied, between and among the Parties with respect to the subject matter of this Agreement. No representation, warranty, promise, inducement or statement of intention has been made by either Party that is not embodied in this Agreement or such other documents, and neither Party shall be bound by, or be liable for, any alleged representation, warranty, promise, inducement or statement of intention not embodied herein or therein.

7.8 Captions. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

7.9 Severability. If any provision of this Agreement, or the application thereof to any Person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other Persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth at the later of the date this Agreement was executed or last amended.

7.10 Dispute Resolution.

(a) With the exception of disputes involving Intellectual Property ownership and infringement issues, and disputes governed by Section 2.7, Section 2.8, Section 2.9 or Section 5.8(g) hereof, any dispute arising under this Agreement shall be finally resolved by arbitration. The Parties waive their right to any form of appeal to a court on any questions of law arising out of the arbitration award. Any dispute or claim between the Parties which is beyond the scope of this Section shall be submitted to the exclusive jurisdiction of the courts of the State of New York and the Federal courts of the United States of America located in the State of New York. The Parties hereby consent to and grant any such court jurisdiction over such Parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 7.1 or in such other manner as may be permitted by Applicable Law, shall be valid and sufficient service thereof.

(b) Mediation. Prior to arbitration, however, the Party making the original claim shall provide the other Party with a written description of the dispute or claim and one or more of the senior executives of each Party shall meet in an attempt to resolve such dispute or claim. If the disagreements cannot be resolved by the senior management after 90 days from the date any Party made a written demand for resolution, a binding arbitration shall be held.

(c) Arbitration Rules. The rules of the arbitration shall be agreed upon by the Parties prior to the arbitration and shall be based upon the nature of the disagreement. To the extent that the Parties cannot agree on the rules of the arbitration after 30 days from the date any Party makes a written demand for resolution, then, subject to Section 7.10(d), the Rules of Arbitration of the ICC in effect as of the Closing Date shall apply.

(d) Mandatory Rules. As a minimum set of rules in the arbitration the Parties agree as follows:

(i) The arbitration shall be held by one arbitrator appointed by mutual agreement of the Parties. If the Parties cannot agree on a single arbitrator within 15 days from the date written demand for arbitration has been received by the other Party, each Party shall identify one independent individual. The individuals appointed by the Parties shall then meet to appoint a single arbitrator. If an arbitrator still cannot be agreed upon within an additional 15 day period, he or she shall be appointed by the ICC.

(ii) The place of arbitration shall be New York, New York. Hearings and meetings shall be held in New York or at such other place as the Parties may agree.

(iii) The English language shall be used in the proceedings. Documents and written testimonies may be submitted in any language *provided* that the Party submitting such documents and testimonies shall provide, at its own expense, a translation of the same in the English language.

(iv) The arbitrator shall specify the basis for the award, the basis for the damages award and a breakdown of the damages awarded, and the basis of any other remedy authorized under this section. The award shall be considered as a final and binding resolution of the dispute or claim.

(v) The Parties agree to maintain the confidentiality of the arbitral proceedings, the existence of the same and the status of the hearings. In addition, the Parties undertake to maintain the confidentiality of any document exchanged in, produced in, or created by the Parties for the arbitration proceedings as well as the confidentiality of the award. Notwithstanding the foregoing, if the disclosure of the arbitral proceedings, or of any of the documents exchanged in, produced in or created for the arbitration proceedings or if the disclosure of the award is required by Applicable Law or is compelled by a court or Governmental Authority: (A) the Parties shall use the legitimate and legal means available to minimize the scope of their disclosure to third parties; and (B) the Party compelled to make the disclosure shall inform the other Party and the arbitrator at least 20 Business Days in advance of the disclosure (or if 20 Business Days' notice is not practicable because the Party is required to make the disclosure less than 20 Business Days after becoming aware of the event or occurrence giving rise to such disclosure requirement, then notice to the other Party and the arbitrator shall be provided as soon as practicable after such event or occurrence).

(vi) The duty of the Parties to arbitrate any dispute or claim within the scope of this Section shall survive the expiration or termination of this Agreement for any reason. The Parties specifically agree that any action must be brought, if at all, within two years from discovery of the cause of action.

(vii) The discretion of the arbitrator to fashion remedies shall be no broader than the legal and equitable remedies available to a court (unless the parties expressly agree otherwise prior to the start of arbitration). In no event, however, shall the arbitrator award a remedy which enjoins a Party or its customers to stop manufacturing, using, marketing, selling, offering for sale, or importing such Party's products. In addition, notwithstanding anything herein to the contrary, in no event, shall the arbitrator award a remedy which enjoins a Party to license to the other Party any of its intellectual property rights of whatever nature. The arbitrator will have no authority to award damages in excess of compensatory damages and each Party expressly waives and foregoes any right to punitive, exemplary or similar damages, except as such damages may be required by statute. In no event shall the amount of damages awarded to the prevailing Party exceed or otherwise be inconsistent with any of the applicable limitations on damages set forth in this Agreement, including Sections 6.2 and 6.5.

(viii) The arbitrator may not order any conservatory or interim relief measures of any kind. In any event, however, either Party may apply for conservatory or interim relief measures to the courts of the State of New York or the Federal courts of the United States of America located in the State of New York which shall have exclusive jurisdiction to grant such injunctive relief.

(ix) The Parties shall agree upon what, if any, disclosure to the other parties to the arbitration shall be permitted. If the Parties can not agree on the form of disclosure within 30 days after the appointment of the arbitrator, then the Parties agree that in addition to the Rules of Arbitration of the ICC, the arbitrators shall apply the IBA Rules of Evidence. In case of conflict between Rules of Arbitration of the ICC and the IBA Rules of evidence, the Rules of Arbitration of the ICC shall prevail. Notwithstanding anything herein to the contrary, in no event shall anything verbally or in writing used strictly for settlement purposes between the Parties be permitted by the arbitration to be used as evidence for either Party's case.

(x) The Parties shall equally bear the costs of the arbitration. Each Party shall bear the fees and expenses of its appointed experts and shall bear its own legal expenses. For the purpose of this clause, the term "costs of arbitration" includes only: (A) the fees and expenses of the arbitrator; (B) in the case of an arbitration governed by the ICC Rules, the ICC administrative expenses fixed by the Court of Arbitration of the ICC; and (C) the fees and expenses of any experts appointed by the arbitrator.

7.11 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (d) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS IN THIS SECTION 7.11.

7.12 Third Party Beneficiaries. Notwithstanding any other provision in this Agreement to the contrary, neither ST nor FP shall be deemed to be a third party beneficiary under this Agreement for any purpose. No provision of this Agreement shall create any third party beneficiary rights in any other Person, including any employee or former employee of Intel or ST or any of their respective Affiliates (including any beneficiary or dependent thereof).

7.13 Specific Performance. The Parties hereby acknowledge and agree that the failure of any Party to perform its agreements and covenants hereunder, including its failure to take all actions as are necessary on its part to the consummation of the transactions contemplated herein, may cause irreparable injury to the other Parties, for which damages, even if available, may not be an adequate remedy. Accordingly, each Party hereby consents to the issuance of injunctive relief by any court of competent jurisdiction to compel performance of such Party's obligations and to the granting by any court of the remedy of specific performance of its obligations hereunder.

7.14 No Presumption Against Drafting Party. Intel, Holdings and Numonyx acknowledge that Intel and each of the other shareholders of Holdings have been represented by counsel in connection with the negotiation and execution of this Agreement and the other Transaction Documents. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Parties hereto have caused this Intel Asset Transfer Agreement to be duly executed and delivered as of the date set forth above.

**INTEL CORPORATION**

By: /s/ Cary I. Klafter  
Name: Cary I. Klafter  
Title: Vice President

**NUMONYX HOLDINGS B.V.**

By: /s/ Brian Harrison  
Name: Brian Harrison  
Title: Sole Managing Director

**NUMONYX B.V.**

By: NUMONYX HOLDINGS B.V.,  
the sole member of the Managing Board of  
NUMONYX B.V.

By: /s/ Brian Harrison  
Brian Harrison,  
the sole member of the Managing Board of NUMONYX  
HOLDINGS B.V.

*[Signature Page to Intel Asset Transfer Agreement]*

---

INTEL ASSET TRANSFER AGREEMENT

DEFINITIONS

“Accounts Payable” means all accounts payable owing by a Person for raw materials or supplies received by or services rendered to such Party or any of its Subsidiaries.

“Accounts Receivable” means all accounts receivable, notes receivable and other current rights to payment of a Person, together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto, and any claim, remedy or other right related to any of the foregoing.

“Actual Intel Capital Expenditures” shall have the meaning set forth in Section 2.9 of the Intel Asset Transfer Agreement.

“Affiliate”, with respect to any Person, means any other Person directly or indirectly controlling, controlled by or under common control with, such Person; *provided, however*, that with respect to Intel and ST, “Affiliates” shall be deemed to only include their respective Subsidiaries; *provided further*, that with respect to Holdings and any of its Subsidiaries, “Affiliates” shall be deemed to expressly exclude Intel, ST and the FP Parties and each of their Affiliates. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling”, “controlled by” or “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Amended and Restated Master Agreement” means that certain Amended and Restated Master Agreement by and among Intel, ST and the FP Parties dated March 30, 2008.

“Applicable Law” means, with respect to any Person, any federal, state, local or foreign statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any Governmental Authority applicable to such Person or any of its Affiliates or any of their respective properties, assets, officers, directors, employees, consultants or agents.

“Articles of Association” means the Articles of Association of Holdings, dated as of March 30, 2008, as amended from time to time.

“Business Day” means each day other than a Saturday, Sunday or other day on which commercial banks in New York, New York or Geneva, Switzerland are authorized or required by law to close.

“Cash and Cash Equivalents” means all cash on hand and cash equivalents of a Person (whether or not related to the applicable Business), including currency and coins, negotiable checks, bank accounts, marketable securities, commercial paper, certificates of deposit, treasury bills, surety bonds and money market funds.

“Claims” means all rights to causes of action, claims, demands, rights and privileges against third parties, whether liquidated or unliquidated, fixed or contingent, choate or inchoate.

“Closing” shall have the meaning set forth in Section 2.5 of the Master Agreement.

“Closing Date” means the date of the Closing, as further described in Section 2.5 of the Master Agreement.

“Confidentiality Agreements” means (i) the Corporate Non-Disclosure Agreement No. 1367780 between Intel and ST, dated March 13, 2006, as amended by a side letter dated March 9, 2006 and executed by the parties on or about March 13, 2006; (ii) the Corporate Non-Disclosure Agreement between Intel Corporation and Francisco Partners II, L.P. (“Francisco”) dated September 13, 2006, as amended by a side letter dated September 13, 2006; (iii) the Confidential Disclosure Agreement between ST and Francisco, dated September 14, 2006; (iv) the Multiparty Confidential Information Exchange Agreement by and among Intel, ST and Francisco, dated September 14, 2006; (v) the Corporate Non-Disclosure Agreement between Intel and Holdings, dated as of the Closing Date; (vi) the Confidential Disclosure Agreement between ST and Holdings, dated as of the Closing Date; and (vii) the Corporate Non-Disclosure Agreement between Francisco and Holdings, dated as of the Closing Date, and the Mutual Confidentiality Agreement by and among Intel, ST, the FP Parties, Holdings and Numonyx, dated as of the Closing Date.

“Confidential Information” means any (i) information in tangible form that bears a “confidential,” “proprietary,” “secret” or similar legend, including the Intel Transferred Trade Secrets set forth on Schedule 2.1(h) of the Intel ATA Disclosure Letter, the Intel Retained Trade Secrets, the ST Transferred Trade Secrets set forth on Schedule 2.1(h) to the ST ACA Disclosure Letter, the ST Retained Trade Secrets, any books and records of any Party, and any other confidential information disclosed by any Party to any other Party(ies) in connection with the negotiation, evaluation and implementation of the Transaction Documents, including any information disclosed on the ST ACA Disclosure Letter or the Intel ATA Disclosure Letter and any information provided pursuant to Section 4.1 of the Master Agreement; (ii) information that a Party observes or perceives by inspection of tangible objects (including without limitation documents, prototypes, or samples) or otherwise while present at another Party’s facilities or any other location at which tangible objects embodying another Party’s Confidential Information is accessible; and (iii) any information to which a Party receives access as a result of the relationship of the Parties or such Party’s performance under a Transaction Document. Each Party will make a reasonable good faith effort to identify as “confidential” or the like the information in tangible form that it wishes to be treated as Confidential Information pursuant to this Agreement, but a Party’s failure to so mark any such information shall not relieve a Receiving Party of its obligations under this Agreement. Notwithstanding the foregoing, “Confidential Information” does not include: (x) any information that is or has become generally available to the public other than as a result of a disclosure by the Receiving Party or any Affiliate thereof in breach of any of the provisions of the Confidentiality Agreements or any other similar contract to which the Receiving Party or any Affiliate thereof is bound; (y) any information that has been independently developed by the Receiving Party (or any Affiliate thereof) without violating any of the provisions of the Confidentiality Agreements or any other similar contract to which the Receiving Party or any Affiliate thereof is bound; or (z) any



**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

information made available to the Receiving Party (or any Affiliate thereof) on a non-confidential basis by any third party who is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation.

“Contemplated Financing” means the debt financing provided to Numonyx pursuant to that certain US \$550,000,000 Facilities Agreement dated March 25, 2008 and made between Numonyx, Intesa, Unicredit, the Original Lenders (as defined therein) and the Agent (as defined therein).

“Contemplated Financing Lenders” means Intesa and Unicredit.

“Contract” means each contract, agreement, option, lease, license, cross-license, sale and purchase order, commitment and other instrument of any kind, whether written or oral.

“Contribution Agreement” means that certain Reimbursement, Guaranty, Contribution and Intercreditor Agreement dated as of March 25, 2008 among Numonyx, Holdings and the Guarantors.

“Contributor Financing” means the debt financing pursuant to the Note Agreement.

“Control” has the meaning such that a Person (or group of related Persons) exercises Control over a Party when such Person or group owns or controls (either directly or indirectly) any of the following: (a) if the Party issues voting stock or other voting securities, more than 50% of the outstanding stock or securities entitled to vote for the election of directors or similar managing authority; or (b) if such Party does not issue voting stock or other voting securities, more than 50% of the ownership interest that represents the right to make decisions for such Party; or (c) any other ability to elect more than half of the board of directors or similar managing authority of the subject Party, whether by contract or otherwise.

“Copyrights” means copyrights and mask work rights (whether or not registered) and registrations and applications therefor, worldwide.

“Customer Data” means the data related to customers of a Party’s Business which is included in such Party’s Transferred Assets.

“D2” means Intel’s Santa Clara, California, USA wafer manufacturing facility.

“D2 Equipment” means the machinery, laboratory and other equipment, tools and other tangible personal property set forth under the heading “D2” in Schedule 2.1(a) to the Intel ATA Disclosure Letter.

“Effective Time” means, unless otherwise agreed by the Parties, 12:01 a.m. GMT on the Closing Date.

“Environmental Laws” means any Applicable Laws of any Governmental Authority in effect as of the Closing Date, unless otherwise noted, relating to pollution, protection or remediation of the environment, the use, storage, treatment, generation, manufacture,

distribution, transportation, processing, handling, Release, disposal of or exposure to Hazardous Substances or, as such relate to Hazardous Substances, public and occupational health and safety.

“Environmental Liability” means any Liability or Loss, including the cost of any Remedial Action, arising in connection with (i) the use, generation, storage, treatment, manufacture, distribution, transportation, processing, handling, disposal or Release of any Hazardous Substances, (ii) the violation of or liability under any Environmental Laws or any Governmental Approval relating to any Hazardous Substances or (iii) any third party claim, litigation or proceeding relating to any Hazardous Substance or Environmental Laws.

“Environmental Permits” means all permits, licenses or other authorizations of any Governmental Authority required pursuant to applicable Environmental Law.

“Epidemic Failure” means the verified failure of an Intel Product to conform to the applicable warranties provided by Intel to the purchaser of such Intel Product in an amount greater than 1% of the aggregate quantity of the Intel Product received by the purchaser within any calendar month during the warranty period and attributable to a single root cause. In the event Intel sold Intel Product to a purchaser prior to Closing and such purchaser notifies Numonyx or one of its Subsidiaries of a possible Epidemic Failure relating to such sale of Intel Product after Closing, Numonyx shall immediately notify Intel of a possible Epidemic Failure and submit a written Failure Analysis Report to Intel within ten Business Days after providing notice of the possible Epidemic Failure. Within ten Business Days after receiving the Failure Analysis Report, Intel shall provide a response indicating its agreement or disagreement with the Failure Analysis Report, or request for additional information. Once Intel and Numonyx have agreed that the reported problem constitutes an Epidemic Failure, Intel and Numonyx will use commercially reasonable efforts to mutually agree upon a commercially reasonable accommodation for the purchaser. In the event Intel and Numonyx are unable to agree (i) whether a reported problem constitutes an Epidemic Failure, (ii) on a reasonable accommodation for an agreed Epidemic Failure, the matter issue shall be resolved pursuant to Section 7.10 of this Agreement.

“Equity Plan” means the Numonyx Holdings B.V. Equity Incentive Plan, an equity compensation plan for Holdings, with terms reasonably satisfactory to Holdings, Intel, ST, and the FP Parties.

“Equity Purchase Price” shall have the meaning set forth in Section 2.2(b) of the FP Purchase Agreement.

“Equity Transaction Documents” means the FP Purchase Agreement, the Securityholders’ Agreement, the Articles of Association and the Internal Rules.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder.

“Exchange Act” means the United States Securities Exchange Act of 1934.

“Facilities Agreement” means the Term and Revolving Facilities Agreement dated as of March 25, 2008, among Numonyx, the several lenders and issuing bank from time to time party

thereto and Intesa Sanpaolo S.p.A., as agent, which provides for unsecured credit facilities, consisting of a term loan and revolving credit facility in an aggregate principal amount of \$550,000,000.

“Final Payment Date” has the meaning set forth in Section 2.8 of the Intel Asset Transfer Agreement.

“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.

“FP” means FP Co. and FP LLC.

“FP Co.” means Redwood Blocker S.a.r.l., a limited liability company organized under the laws of The Grand-Duchy of Luxembourg, a wholly-owned subsidiary of FP Holdco.

“FP Holdco” means Francisco Partners II (Cayman) L.P., an exempted limited partnership organized under the laws of the Cayman Islands.

“FP LLC” means PK Flash, LLC, a limited liability company organized under the laws of Delaware, wholly-owned subsidiary of FP Parallel.

“FP Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to one or more of the FP Parties, in substantially the form attached as Exhibit A to the Note Agreement.

“FP Parallel” means Francisco Partners Parallel Fund II L.P., a limited partnership organized under the laws of Delaware.

“FP Parents” means FP Holdco and FP Parallel.

“FP Parties” means FP Co., FP Holdco, FP LLC and FP Parallel.

“FP Purchase Agreement” means the FP Purchase Agreement entered into by FP Co., FP LLC and Holdings dated as of the Closing Date.

“GAAP” means generally accepted accounting principles in the United States of America, applied on a consistent basis, as in effect as of the date hereof.

“Governmental Approval” means an authorization, consent, approval, permit or license issued by, or a registration or filing with, or notice to, or waiver from, any Governmental Authority.

“Governmental Authority” means any United States or non-United States federal, territorial, state or local governmental authority, quasi-governmental authority, instrumentality,

court, government or self-regulatory organization, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

“Guarantee” or “Guarantees” means that certain Guarantee of Specific Liabilities dated as of March 27, 2008 made by each of Intel and ST in favor of Intesa and the other lenders named in the Facilities Agreement.

“Guarantor” or “Guarantors” means each of ST and Intel in their capacity as guarantors of certain payment obligations of Numonyx under the Facilities Agreement pursuant to a Guarantee.

“Hazardous Substance” shall mean any hazardous substance within the meaning of Section 101(14) of the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601(14), and any chemical, substance, material, agent or waste defined or regulated as toxic, hazardous, extremely hazardous or radioactive, or as a pollutant or contaminant, under any applicable Environmental Law, including petroleum, petroleum derivatives, petroleum by-products or other hydrocarbons, asbestos or asbestos-containing material and polychlorinated biphenyls.

“Holdings” means Numonyx Holdings B.V., a private company with limited liability organized under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands.

“Holdings Actuary” shall have the meaning set forth in Section 5.11(c) of the Intel Asset Transfer Agreement.

“Holdings Indemnitees” means Holdings, and its Subsidiaries, officers, directors, shareholders, representatives and agents; *provided, however*, that “Holdings Indemnitees” shall be deemed to exclude Intel, ST, the FP Parties and each of their respective Affiliates.

“IBA Rules of Evidence” means the IBA Rules on the Taking of Evidence in International Commercial Arbitration.

“ICC” means the International Chamber of Commerce.

“IFO” means Intel’s Ireland wafer manufacturing facility.

“Indebtedness” means any (i) indebtedness for borrowed money, (ii) indebtedness evidenced by any bond, debenture, note, mortgage, indenture or other debt instrument or debt security, or (iii) guarantees with respect to any indebtedness or obligation of a type described in clauses (i) through (ii) above of any other Person.

“Indemnitee” shall (i) for purposes of the Intel Asset Transfer Agreement, have the meaning set forth in Section 6.2(c) of the Intel Asset Transfer Agreement, and (ii) for purposes of the ST Asset Contribution Agreement, have the meaning set forth in Section 6.2(e) of the ST Asset Contribution Agreement.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Indemnitor” shall (i) for purposes of the Intel Asset Transfer Agreement, have the meaning set forth in Section 6.2(c) of the Intel Asset Transfer Agreement, and (ii) for purposes of the ST Asset Contribution Agreement, have the meaning set forth in Section 6.2(c) of the ST Asset Contribution Agreement.

“Independent Accountants” shall have the meaning set forth in Section 2.7(c) of the Intel Asset Transfer Agreement.

“Infrastructure Procurement Agreement” means that certain Infrastructure Procurement Agreement entered into by and among Intel, ST and Holdings dated as of the Closing Date.

“Intel” has the meaning set forth in the Introduction to this Agreement.

“Intel Actuary” shall have the meaning set forth in Section 5.11(c) of the Intel Asset Transfer Agreement.

“Intel Aggregate Cash” has the meaning set forth in Section 2.6(b) of the Intel Asset Transfer Agreement.

“Intel Ancillary Agreements” means the Intel Assignment and Assumption Agreements, Intel Entity Bills of Sale, Intel Intellectual Property Agreement, Intel Transition Services Agreements, Intel Facility Transfer Agreements, Intel Joint Development Agreement, Intel Supply Agreements, Intel Entity Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreements, Intel Patent Assignment, Intel Trademark Assignment, Intel Entity Capitalization and Assignment Agreement, Intel Pudong Services Agreement, Intel Secondment Agreement and Intel Option.

“Intel Approvals” means the required consents, waivers and approvals of Intel set forth on Schedule 3.3 of the Intel ATA Disclosure Letter and Schedule 3.1(c) of the Intel Master Agreement Disclosure Letter.

“Intel Assignment and Assumption Agreement” means, collectively, the Assignment and Assumption Agreements entered into by Holdings or its Affiliates, on one hand, and Intel or its Affiliates, on the other hand, dated as of the Closing Date.

“Intel ATA Disclosure Letter” means the disclosure letter, as agreed to between the Parties as of the Signing Date (with such amendments or new schedules as may be subsequently made in accordance with Section 4.12 of the Master Agreement), containing the Schedules required by the provisions of the Intel Asset Transfer Agreement.

“Intel ATA Restricted Employees” shall have the meaning set forth in Section 5.11(e)(ii) of the Intel Asset Transfer Agreement.

“Intel Books and Records” means all of the books of account, general and financial records, invoices, shipping records, customer records, supplier lists, correspondence and other documents, records and files of Intel and its Subsidiaries whether in hard copy or computer format which relate exclusively to the Intel Business and are necessary for the conduct of such Intel Business after the Closing (excluding all personnel records or any employee information for

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

Intel Business Employees who are not Intel Transferred Employees employed by an Intel Transferred Entity as of the Closing Date).

“Intel Business” means the sale, manufacture, design and or development of NOR Flash Memory Products, Phase Change Memory technology (subject to Schedule 2.2(o) to the Intel ATA Disclosure Letter), and Stacked Memory Products.

“Intel Business 2007 Financial Statements” has the meaning set forth in Section 5.15(b) of the Intel Asset Transfer Agreement.

“Intel Business Capital Expenditures Plan” means the plan set forth on Schedule 3.14(e) of the Intel ATA Disclosure Letter setting forth (i) the actual capital expenditures of Intel with respect to the Intel Business for its first fiscal quarter of 2007; and (ii) the budgeted capital expenditures of Intel with respect to the Intel Business for the second, third and fourth fiscal quarters of 2007 and the first fiscal quarter of 2008.

“Intel Business Employees” means the employees who are identified on Schedule 3.12(c) of the Intel ATA Disclosure Letter.

“Intel Cash Independent Accountants” has the meaning set forth in Section 2.8 of the Intel Asset Transfer Agreement.

“Intel Consideration” shall have the meaning set forth in Section 2.6(c) of the Intel Asset Transfer Agreement.

“Intel Contractual Consents” shall have the meaning set forth in Section 3.8(b) of the Intel Asset Transfer Agreement.

“Intel Employee Agreement” means each management, employment, severance, consulting, relocation, repatriation, expatriation or other agreement or Contract between Intel or any of its Subsidiaries and any Intel Business Employee directly relating to such Intel Business Employee’s terms or conditions of employment.

“Intel Employee Liability Date” means the earlier of (i) the Intel Employee Transfer Date or (ii) the date Intel Business Employees become seconded employees subject to the Intel Secondment Agreement.

“Intel Employee Plan” means any plan, program, policy, practice, agreement or other arrangement providing for compensation, severance, termination pay, vacation pay, paid time off, pension benefits, retirement benefits, deferred compensation, variable compensation, bonuses, performance awards, stock or stock-related awards, fringe benefits (including health, dental, vision, life, disability, sabbatical, accidental death and dismemberment benefits), or other employee benefits or remuneration of any kind, whether written, unwritten or otherwise, funded or unfunded, including each “employee benefit plan,” within the meaning of Section 3(3) of ERISA, excluding any Intel Employee Agreement, which is or has been maintained or contributed to by Intel or its Affiliates for the benefit of any Intel Business Employee.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Intel Employee Transfer Date” means the date Intel Business Employees become Intel Transferred Employees employed by Holdings or any of its Subsidiaries.

“Intel Entity Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreement” shall have the meaning set forth in Section 2.4 of the Intel Asset Transfer Agreement.

“Intel Entity Bill of Sale” means any bill of sale or other similar document reasonably requested by any Party and reasonably necessary to transfer any Intel Transferred Asset in accordance with applicable law to be executed by one or more Intel Transferors in favor of Holdings or a Subsidiary of Holdings as of the Closing Date.

“Intel Entity Capitalization and Assignment Agreement” means that certain Intel Entity Capitalization and Assignment Agreement between Intel and Numonyx dated as of the Closing Date.

“Intel Equipment” means (i) the machinery, laboratory and other equipment, tools and other tangible personal property set forth on Schedule 2.1(a) of the Intel ATA Disclosure Letter and (ii) each item of machinery, laboratory and other equipment, tools and other tangible personal property with a gross book value of less than \$10,000 that is exclusively related to the Intel Business and located at the Intel Transferred Facilities.

“Intel Excluded Assets” shall have the meaning set forth in Section 2.2 of the Intel Asset Transfer Agreement.

“Intel Excluded Claims” means all Claims to the extent that such claims relate to: (i) any Intel Excluded Assets; or (ii) events or breaches occurring on or prior to the Closing Date that relate to the Intel Transferred Assets, *provided* that Claims for infringements of any Intel Transferred Patents, Intel Transferred Copyrights or Intel Transferred Trade Secrets occurring on or prior to the Closing Date shall not be Intel Excluded Claims.

“Intel Excluded Liabilities” shall have the meaning set forth in Section 2.4 of the Intel Asset Transfer Agreement.

“Intel Facility Environmental Liability” shall mean all Intel Pre-Closing Environmental Liabilities relating to the condition of the soil, soil gas, surface water (including sediments) or groundwater, with respect to the existence of any Hazardous Substances therein, at, on, or under the Intel Transferred Owned Real Property or the Intel Transferred Leased Real Property.

“Intel Facility Transfer Agreements” means the agreements and other documents used to consummate or implement the transfer by Intel and its Subsidiaries to Holdings and its Subsidiaries of the assets described therein which shall be substantially based on the Intel Facility Transfer Term Sheets.

“Intel Facility Transfer Term Sheets” means the term sheets attached to Schedule 4.22(a) to the Intel Master Agreement Disclosure Letter reflecting the terms and conditions upon which the agreements and other related documents effecting the transfer by Intel and its Subsidiaries of the assets described therein to Holdings and its Subsidiaries shall be substantially based.

“Intel Financial Information” shall have the meaning set forth in Section 3.13(a) of the Intel Asset Transfer Agreement.

“Intel Financial Information Date” shall have the meaning set forth in Section 3.13(a) of the Intel Asset Transfer Agreement.

“Intel Funded Employee Plan” means any Intel Employee Plan that is funded other than through book reserves or insurance and that is not subject to the laws of the United States.

“Intel Funded Employee Plan Amount” shall have the meaning set forth in Section 5.11(c) of the Intel Asset Transfer Agreement.

“Intel Holdings Shares” shall have the meaning set forth in Section 2.6(a) of the Intel Asset Transfer Agreement.

“Intel Indemnitees” means Intel and its Affiliates, officers, directors, stockholders, representatives and agents.

“Intel Intellectual Property Agreement” means the Intellectual Property Agreement entered into by and between Intel, Holdings and Numonyx dated as of the Closing Date.

“Intel Inventory Value” means, as of any date of determination, the gross book value of the Intel Transferred Inventory as of such date (less (x) reserves and (y) any amount in respect of depreciation allocated to the Intel Transferred Inventory) as determined as of such date (1) from the books and records of Intel maintained in the ordinary course of business and (2) in accordance with GAAP, applied in a manner consistent with the Intel Financial Information (as it may be adjusted by Intel in its sole discretion to reflect any changes consistent with the audited financial statements of the Intel Business to be delivered under this Agreement at and for the year ended December 31, 2006). Intel Inventory Value shall be determined without giving effect to the transactions contemplated by this Agreement. For purposes of this definition, the amount of reserves deducted under clause (x) above shall be determined as of such date (1) from the books and records of Intel maintained in the ordinary course of business and (2) in accordance with GAAP, applied in a manner consistent with the Intel Financial Information (as adjusted above). The Intel Inventory Value at the end of the first fiscal quarter of Intel and the Intel Inventory Value at the Closing Date shall be determined on a consistent basis in all respects. Notwithstanding the foregoing, no amount shall be included in the Intel Inventory Value with respect to:

- (i) inventories of any Intel Product which, as of such date, is obsolete; or
- (ii) any units in inventory of any Intel Product which as of such date (A) are not first quality, (B) are not free from defects or (C) do not meet all applicable customer specifications.

“Intel Joint Development Agreement” means the Joint Development Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intel Leases” means all leases or other occupancy agreements pursuant to which Intel or its Subsidiaries lease or occupy the Intel Transferred Leased Real Property.



**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Intel Master Agreement Disclosure Letter” means the disclosure letter, as delivered by Intel to ST and the FP Parties as of the Signing Date (with such amendments as have been subsequently made in accordance with Section 4.12 of such Agreement), containing the Schedules required by the provisions of such agreement.

“Intel Material Adverse Effect” means any event, change or circumstance that, individually or in the aggregate with all other such events, changes or circumstances, (i) results in a material adverse effect on, or material adverse change in, the Intel Transferred Assets, taken as a whole, or (ii) any event, change or circumstance that is materially adverse to the ability of Intel to perform its obligations under any Transaction Document to which it is or will be a party or to consummate the transactions contemplated thereby, other than, in the case of clause (i) above, such changes, effects or circumstances reasonably attributable to: (A) economic, capital market or political conditions generally in the United States or foreign economies in any locations where the Intel Business has material operations or sales, provided the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the Intel Business, (B) conditions generally affecting the industry in which the Intel Business operates, *provided* that the changes, effects or circumstances do not have a materially disproportionate effect (relative to other industry participants) on the Intel Business; (C) the announcement or pendency of the transactions contemplated by the Transaction Documents; (D) outbreak of hostilities or war, acts of terrorism or acts of God; or (E) compliance with Intel’s obligations or the satisfaction of the conditions to the closing of the transactions contemplated by the Transaction Documents.

“Intel Note Purchase Cash” has the meaning set forth in Section 2.6(b) of the Intel Asset Transfer Agreement.

“Intel Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to Intel Singapore, in substantially the form attached as Exhibit A to the Note Agreement.

“Intel Notice of Disagreement” shall have the meaning set forth in Section 2.7(b) of the Intel Asset Transfer Agreement.

“Intel Option” means that certain Option to Purchase Ordinary Shares by and between Holdings and Intel Singapore dated March 29, 2008.

“Intel Option Exercise Cash” has the meaning set forth in Section 2.6(b) of the Intel Asset Transfer Agreement.

“Intel Option Shares” means the number of Ordinary Shares purchased by Intel or its Subsidiaries pursuant to the Intel Option.

“Intel Patent Assignment” means any agreement for the assignment of Intel Transferred Patents by an Intel Transferor to Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Post-Closing Environmental Liability” shall mean any Environmental Liability, including a worsening of existing conditions, to the extent arising out of or relating to (i) acts of Holdings or any of its Affiliates occurring on or after the Effective Time, (ii) inaction of

Holdings or any of its Affiliates occurring one year or later after the Effective Time, or (iii) inaction of Holdings or any of its Affiliates occurring within one year after the Effective Time if Holdings or any of its Affiliates knew about the existing condition and its inaction worsened the existing condition; and in connection with the Numonyx Business or the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets or the Intel Transferred Entities or the ownership or operation of a Numonyx Business or the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property or the Intel Transferred Assets, the Intel Transferred Entities by, or the disposal or treatment of Hazardous Substances generated by, Holdings or an Affiliate of Holdings (including an Intel Transferred Entity) after the Effective Time.

“Intel Post-Closing Product Obligations” means (i) all obligations arising in respect of product support or maintenance obligations related to Intel Products sold or licensed on or after the Closing and required to be performed after the Closing, which obligations arise under any Intel Transferred Contract, and any Liabilities which may arise in connection with the performance of, or failure to perform, those obligations and (ii) Liabilities relating to any product liability, warranty, refund or similar claims or returns, adjustments, allowances, repairs made with respect to Intel Products sold after the Closing Date, including those sold by Intel on behalf of Holdings or an Affiliate of Holdings after the Closing pursuant to the Intel Transition Services Agreements.

“Intel Pre-Closing Environmental Liability” shall mean any Environmental Liability which (i) relates to the ownership or operation of the Intel Business (as now or previously conducted), the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, the Intel Transferred Entities or any other real property or facility owned, leased, operated or used in connection with the Intel Business (as now or previously conducted) or for the disposal or treatment of Hazardous Substances generated in connection with the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, or the Intel Transferred Entities, (ii) arises out of or relates to acts occurring or conditions existing prior to the Effective Time, but only to the extent that the Environmental Liability arising out of or relating to acts occurring or conditions existing prior to the Effective Time can be identified from (A) the Intel Environmental Reports so long as such reports are issued not later than one year subsequent to the Closing or (B) documents or data generated prior to the Effective Time and in the possession of Intel prior to the Effective Time, and (iii) is identified in the foregoing documents and/or data with sufficient specificity so as to clearly identify the scope of the Environmental Liability that is attributable to the Intel Business, the Intel Transferred Owned Real Property, the Intel Transferred Leased Real Property, the Intel Transferred Assets, or the Intel Transferred Entities. Notwithstanding the foregoing, Intel Pre-Closing Environmental Liability shall not include any Intel Post-Closing Environmental Liability.

“Intel Pre-Closing Product Obligations” means (i) all obligations arising in respect of product support or maintenance obligations related to Intel Products sold or licensed prior to the Closing and required to be performed after Closing, which obligations arise under any Intel Transferred Contract, and any Liabilities which may arise in connection with the performance of, or failure to perform, those obligations and (ii) Liabilities relating to any product liability, warranty, refund or similar claims or returns, adjustments, allowances, repairs, or commercial

accommodations or arrangements in respect of Epidemic Failures made with respect to Intel Products sold on or before the Closing Date.

“Intel Preliminary Closing Statement” has the meaning set forth in Section 2.8 of the Intel Asset Transfer Agreement.

“Intel Prepayments” means all Prepayments of Intel or any of its Subsidiaries (a) associated with the Intel Transferred Contracts and (b) set forth on Schedule 2.1(f) to the Intel ATA Disclosure Letter.

“Intel Privacy Policy” shall have the meaning set forth in Section 5.12 of the Intel Asset Transfer Agreement.

“Intel Products” means all NOR Flash Memory Products and all Stacked Memory Products, manufactured, sold, or under development by Intel as of the Effective Time including those listed on Schedule 1.1(c) of the Intel ATA Disclosure Letter.

“Intel Pudong Option Property” means the assets set forth under the heading “Pudong LBI” identified on Schedule 2.1(a) of the Intel ATA Disclosure Letter

“Intel Pudong Services Agreement” means the Intel Pudong Services Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intel Restricted Employees” shall have the meaning set forth in Section 4.7(a) of the Master Agreement.

“Intel Retained Marks” shall have the meaning set forth in Section 5.3 of the Intel Asset Transfer Agreement.

“Intel Secondment Agreement” means the Intel Personnel Secondment Agreement entered into by and between Intel and Numonyx, dated as of the Closing Date.

“Intel Singapore” means Intel Technology Asia Pte. Ltd., a limited liability company organized under the laws of Singapore.

“Intel Standard Form Product Warranties” shall have the meaning set forth in Section 3.16 of the Intel Asset Transfer Agreement.

“Intel Supply Agreement” means the Supply Agreement entered into by and between Intel and Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Tax Agreement” shall have the meaning set forth in Section 3.10(e) of the Intel Asset Transfer Agreement.

“Intel Trademark Assignment” means any agreement for the assignment of Intel Transferred Trademarks by an Intel Transferor to Holdings or a Subsidiary of Holdings dated as of the Closing Date.

“Intel Transferors” shall have the meaning set forth in the Recitals of the Intel Asset Transfer Agreement.

“Intel Transferred Assets” shall have the meaning set forth in Section 2.1 of the Intel Asset Transfer Agreement.

“Intel Transferred Claims” means all Claims to the extent such Claims relate to the Intel Transferred Assets or the Intel Transferred Liabilities, other than the Intel Excluded Claims. For avoidance of doubt, Intel Transferred Claims shall include claims for infringement of any Intel Transferred Patent, Intel Transferred Copyright or Intel Transferred Trade Secret occurring on or prior to the Closing Date.

“Intel Transferred Contracts” means all unexpired contracts set forth on Schedule 2.1(e) of the Intel ATA Disclosure Letter, together with the Intel Transferred Purchase Orders, the Intel Transferred Sales Orders and the Intel Leases.

“Intel Transferred Copyrights” means the Copyrights identified on Schedule 2.1(i) of the Intel ATA Disclosure Letter.

“Intel Transferred Employee Payment Liabilities” means any and all payment obligations of Intel and its Affiliates (i) relating to the service of Intel Transferred Employees prior to the Intel Employee Transfer Date, (ii) that are assumed by Holdings or a Subsidiary of Holdings by operation of Applicable Law, (iii) that are unfunded or for which accruals are made on the employing company’s balance sheet (or which would be required to be made on a balance sheet prepared in accordance with GAAP, consistently applied), and (iv) that are not otherwise paid out or satisfied to the Intel Transferred Employees prior to or at the Intel Employee Transfer Date, including retirement benefits, termination indemnities, unemployment, accrued vacation and paid-time off benefits, Christmas bonuses, thirteenth-month bonuses, vacation premium bonuses and any other non-incentive cash bonuses (other than salary), jubilee and long-service payments; *provided, however*, that Intel Transferred Employee Payment Liabilities shall not include (w) any contingent Liabilities on the part of Holdings or a Subsidiary of Holdings that arise solely as a result of providing service recognition under Section 5.11(a) of the Intel Asset Transfer Agreement, (x) any unearned incentive bonuses or variable pay, (y) the regular payroll of the Intel Transferred Entities as of the Effective Time and (z) any Liabilities for which Intel receives payment or indemnification pursuant to the Intel Secondment Agreement.

“Intel Transferred Employees” means the Intel Business Employees who accept an offer of employment from Numonyx or a Subsidiary of Numonyx and who begin their employment with Numonyx or a Subsidiary of Numonyx on the Intel Employee Transfer Date (or, to the extent permitted by Applicable Law with respect to inactive employees on short-term, medical or other leave of absence, at the time such employee returns to active status) or such other date as the parties may reasonably agree; *provided, however*, that Intel Business Employees must begin their employment with Numonyx or a Subsidiary of Numonyx no later than June 30, 2008 or such other date as required by Applicable Law or as otherwise mutually agreed upon by the Parties, to be considered an Intel Transferred Employee.

“Intel Transferred Entities” means the entities set forth on Schedule 1.1(a) of the Intel ATA Disclosure Letter.

“Intel Transferred Entity Books and Records” means the minute books, stock records, Tax Returns and other records related to Taxes, if any, in each case of each of the Intel Transferred Entities.

“Intel Transferred Intellectual Property” means, collectively, the Intel Transferred Copyrights, Intel Transferred Patents, Intel Transferred Trademarks and Intel Transferred Trade Secrets.

“Intel Transferred Interests” means 100% of the outstanding equity, voting and profit interests in the Intel Transferred Entities.

“Intel Transferred Inventory” means all raw materials, work-in-process, finished goods, supplies, packaging materials and other inventories owned by Intel or its Subsidiaries relating exclusively to the Intel Business, whether in the possession of Intel, a Subsidiary of Intel or a third party (including consigned inventory and inventory held by subcontractors); *provided, however*, that in no event shall Intel Transferred Inventory include any raw materials (including RAM), work-in-process, supplies, packaging materials or other inventories (other than finished goods inventories) located at Intel’s D2 and IFO facilities.

“Intel Transferred Leased Real Property” means the real property leased by Intel or its Subsidiaries identified in Schedule 3.6(b) of the Intel ATA Disclosure Letter.

“Intel Transferred Liabilities” shall have the meaning set forth in Section 2.3 of the Intel Asset Transfer Agreement.

“Intel Transferred Owned Real Property” means the real property owned by Intel or its Subsidiaries identified in Schedule 3.6(a) of the Intel ATA Disclosure Letter.

“Intel Transferred Patents” means those Patents identified on Schedule 2.1(h) of the Intel ATA Disclosure Letter.

“Intel Transferred Permits” means those Permits identified on Schedule 2.1(l) of the Intel ATA Disclosure Letter.

“Intel Transferred Purchase Orders” means each purchase order or portion thereof issued by Intel or a Subsidiary of Intel to the extent relating to the Intel Business.

“Intel Transferred Real Property” means the Intel Transferred Owned Real Property and the Intel Transferred Leased Real Property transferred to Holdings or one of its Subsidiaries pursuant to the terms of the Intel Facility Transfer Agreements.

“Intel Transferred Sales Orders” means all pending and unfulfilled sales orders or portions thereof for Intel Products.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Intel Transferred Systems” means factory support systems (for example, shop floor control applications governing work stream models, SPC charts, APC configuration), data, manufacturing station controllers linked to process equipment tools, and transferable elements of systems and software, in each case exclusively related to the Intel Business, provided under the Intel Transition Services Agreement which may be released to Holdings or a Subsidiary of Holdings in connection with the termination of such agreement.

“Intel Transferred Trade Secrets” means any Trade Secrets owned by Intel or any of its Subsidiaries as of the Closing Date (including any such Trade Secrets that consist of technical documentation of the nature of the files and other documentation identified on Schedule 2.1(h) to the Intel ATA Disclosure Letter) that are used exclusively in the Intel Business and not materially embodied or used in or with any other current product or service of Intel or any of its Subsidiaries.

“Intel Transferred Trademarks” means those Trademarks identified on Schedule 2.1(k) of the Intel ATA Disclosure Letter.

“Intel Transition Services Agreement” means the Intel Transition Services Agreement entered into by and between Intel and Numonyx dated as of the Closing Date.

“Intellectual Property” means intellectual property rights arising from or in respect of the following, whether protected, created or arising under the laws of the United States or any other jurisdiction: Copyrights, Trade Secrets, Patents and Trademarks.

“Internal Rules” means the internal rules (“reglement”) of Holdings, in substantially the form attached to Schedule 2.4 to both of the Master Agreement Disclosure Letters, as amended from time to time.

“Intesa” means Intesa Sanpaolo S.p.A.

“Knowledge” means, with respect to any Person, the actual knowledge of such Person. Notwithstanding the foregoing, with respect to any Person that is a corporation, limited liability company, partnership or other business entity, actual knowledge shall be deemed to mean the actual knowledge of all directors and officers of any such Person; *provided, however*, that (i) with respect to Intel, “Knowledge” shall be deemed to be solely the actual knowledge of the individuals identified in Section A of Schedule 1.1(b) of the Intel ATA Disclosure Letter, after obtaining from the individuals identified in Section B of Schedule 1.1(b) of the Intel ATA Disclosure Letter a certification as to their actual knowledge of each matter with respect to which Intel makes any representation or warranty as to its Knowledge under any Transaction Document, (ii) with respect to ST, “Knowledge” shall be deemed to be solely the actual knowledge of the individuals identified in Section A of Schedule 1.1(b) of the ST ACA Disclosure Letter, after obtaining from the individuals identified in Section B of Schedule 1.1(b) of the ST ACA Disclosure Letter a certification as to their actual knowledge of each matter with respect to which ST makes any representation or warranty as to its Knowledge under any Transaction Document, and (iii) with respect to the FP Parties, “Knowledge” shall be deemed to be solely the actual knowledge of Dipanjan Deb, Phokion Potamianos, and Keith Toh.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Liability” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, asserted or unasserted, accrued or unaccrued, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, absolute, contingent, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

“Licensing Affiliate”, with respect to any Person, means any other Person directly or indirectly Controlling, Controlled by or under common Control with, such Person.

“Lien” means, with respect to any asset, any lien, mortgage, pledge, hypothecation, right of others, claim, security interest, encumbrance, lease, sublease, license, interest, option, charge or other restriction or limitation of any nature whatsoever in respect of such asset, including any Share Encumbrance; *provided, however*, that any license of Intellectual Property shall not be considered a Lien on such Intellectual Property.

“Losses” means any and all deficiencies, judgments, settlements, demands, claims, suits, actions or causes of action, assessments, liabilities, losses, damages (excluding indirect, incidental or consequential damages), interest, fines, penalties, costs and expenses (including reasonable legal, accounting and other costs and expenses) incurred in connection with investigating, defending, settling or satisfying any and all demands, claims, actions, causes of action, suits, proceedings, assessments, judgments or appeals, and in seeking indemnification therefor.

“Managing Director” means any member of Holdings’ Management Board.

“Master Agreement” means that certain Amended and Restated Master Agreement entered into by and among Intel, ST and the FP Parties dated March 30, 2008.

“Master Agreement Disclosure Letter” means each of the Intel Master Agreement Disclosure Letter and the ST Master Agreement Disclosure Letter.

“Minimum Committed Intel Inventory Value” means 91% of the Intel Inventory Value as of the end of Intel’s first fiscal quarter of 2007.

“Multiemployer Plan” means any employee pension benefit plan within the meaning of Section 3(2) of ERISA that is a “multiemployer plan,” as defined in Section 3(37) of ERISA.

“NFA Letter” shall mean a letter from an appropriate Governmental Authority stating that no further action is required to address any Intel Facility Environmental Liability or ST Facility Environmental Liability, as applicable.

“NOR 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 connected memory cells in which the gate, source and drain of each memory cell is directly accessible.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“NOR Flash Memory Product” means a NOR Flash Memory Integrated Circuit, in die, wafer or packaged form, utilizing a hot carrier injection programming mechanism and one floating gate charge storage region per transistor whereby the memory array is arranged so that the drain of one memory cell is connected directly to a source line through at most one memory transistor.

“Note Agreement” means the Note Agreement entered into by and among Holdings, Intel and/or one or more of Intel’s Subsidiaries, ST and FP dated as of the Closing Date.

“Noteholder” means a holder of Intel Notes, ST Notes or the FP Notes, and each Person (other than Holdings) that shall be a party to the Note Agreement and Securityholders’ Agreement as a holder of Notes, whether in connection with the execution and delivery thereof as of the Closing Date or otherwise, so long as such Person shall beneficially own, hold of record or be a registered holder of any Notes.

“Notes” means, collectively, the Intel Notes, ST Notes and FP Notes issued on the Closing Date, in an aggregate amount of \$320,230,000.

“Notice of Claim” means a written notice by an Indemnitee to an Indemnitor of a claim for Losses.

“Numonyx” means Numonyx B.V., a private company with limited liability organized under the laws of The Netherlands, with its corporate seat in Amsterdam, The Netherlands.

“Numonyx Allocated Positions” means those positions with Holdings or a Subsidiary of Holdings for which an Intel Business Employee or an ST Business Employee is not allocated on Schedule 3.12(c) to the Intel ATA Disclosure Letter or Schedule 3.12(c) to the ST ACA Disclosure Letter.

“Numonyx Approvals” means any Governmental Approval which Intel, ST and FP reasonably agree Holdings or any of its Affiliates must obtain in order to consummate the transactions contemplated by the Transaction Documents.

“Numonyx Business” means the sale, manufacture, design and/or development of advanced memory solutions, including Flash Memory Integrated Circuits, Phase Change Memory Products, Stacked Memory Products and platform memory products which include data management memory components for applications including without limitation cellular phones, memory cards, digital audio players, data processing platform memory and embedded form factors.

“Numonyx Removal Notice” shall have the meaning set forth in Section 5.17(c) of the Intel Asset Transfer Agreement.

“Numonyx Restricted Employees” shall have the meaning set forth in Section 5.11(e)(i) of the Intel Asset Transfer Agreement.

“Numonyx Transition Services Agreement” means the Numonyx Transition Services Agreement entered into by and between ST and Numonyx dated as of the Closing Date.



“Ordinary Shares” means ordinary shares of Holdings, par value one euro per share.

“Outstanding” means, as of any date of determination, all Shares that have been issued on or prior to such date, other than Shares held, repurchased or otherwise reacquired by Holdings on or prior to such date.

“Patents” means patents and applications worldwide, including continuation, divisional, continuation in part, reexamination, or reissue patent applications and patents issuing thereon.

“Permits” means all permits, licenses, franchises, approvals, certificates, consents, waivers, concessions, exemptions, orders, registrations, notices or other authorizations of any Governmental Authority necessary for a Party or its Subsidiaries to own, lease and operate such Party’s Transferred Assets and to carry on such Party’s Business as currently conducted.

“Permitted Liens” means (i) Liens for Taxes or governmental assessments, charges or claims the payment of which is not yet due or which are both (A) being contested in good faith, and (B) described in reasonable detail on a Schedule to the applicable Transaction Document, (ii) statutory Liens of landlords and statutory Liens of carriers, warehousemen, mechanics or materialmen incurred in the ordinary course of business which are either for sums not yet due or are immaterial in amount, (iii) zoning, entitlement, and other land use laws, and (iv) easements and other imperfections of title or encumbrances, in each case, that do not materially detract from the value of the relevant Transferred Asset or materially interfere with any present or intended use of such Transferred Asset.

“Person” means an individual, corporation, partnership, association, limited liability company, trust, estate or other similar business entity or organization, including a Governmental Authority and any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Phase Change Memory” or “PCM” means a Memory Device in die, wafer or packaged form, adjusting the phase of material, such as a chalcogenide, as a means to store one or more different data states (including binary or multi-level cell structures) with or without any on-chip control, I/O and other support circuitry.

“Phase Change Memory Products” or “PCM Products” mean non-volatile memory Integrated Circuits that contain memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more structures that contain a chalcogenide or any other functionally equivalent phase change material utilizing one or more different material phases (including binary or multi-level cell structures), with or without any on-chip control, I/O and other support circuitry.

“Planned Intel Capital Expenditures” shall have the meaning set forth in Section 2.9 of the Intel Asset Transfer Agreement.

“Pledge Agreements” means those certain pledge agreements entered into by Holdings or Numonyx in favor of the Guarantors, as security for satisfaction of the Reimbursement Obligations.

“Post-Closing Tax Period” means any Tax period (or portion thereof) beginning after the Closing Date.

“Pre-Closing Accounts Payable” means all Accounts Payable accruing or arising prior to the Closing Date.

“Pre-Closing Accounts Receivable” means all Accounts Receivable accruing or arising prior to the Closing Date.

“Pre-Closing Tax Period” means any Tax period (or portion thereof) ending on or before the Closing Date.

“Preferred Shares” means the Series A Preferred Shares and the Series A-1 Preferred Shares.

“Preliminary Intel Inventory Statement” has the meaning provided in Section 2.7(a) of the Intel Asset Transfer Agreement.

“Prepayments” means all prepaid items and deposits paid by a Party or any of its Subsidiaries to the extent relating to such Party’s Business, and any claim, remedy or other right related to any of the foregoing.

“Proceeding” means any action, suit, claim, charge, hearing, arbitration, audit, or proceeding (public or private).

“Property Taxes” shall have the meaning set forth in Section 5.8(b)(iii) of the Intel Asset Transfer Agreement.

“PTO” means the United States Patent and Trademark Office.

“Pudong Equipment” means the Intel Transferred Equipment set forth under the heading “Pudong” identified on Schedule 2.1(a) of the Intel ATA Disclosure Letter.

“Receiving Party” shall (i) for purposes of the Intel Asset Transfer Agreement, have the meaning set forth in Section 5.1(b) of the Intel Asset Transfer Agreement, (ii) for purposes of the ST Asset Contribution Agreement, have the meaning set forth in Section 5.1(b) of the ST Asset Contribution Agreement and (iii) for purposes of the Intel Intellectual Property Agreement and the ST Intellectual Property Agreement, with respect to Confidential Information of a Party, mean another Party that is not a Licensing Affiliate of such Party and that receives (or receives access to) such Confidential Information pursuant to or in connection with the Intel Intellectual Property Agreement or the ST Intellectual Property Agreement.

“Release” means (i) any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or other release of any Hazardous Substance at, in, on, into, or onto the environment; (ii) the abandonment or discard of barrels, containers, tanks, or other receptacles containing or previously containing any Hazardous Substance; or (iii) any release, emission, or discharge, as those terms are defined in any applicable Environmental Laws.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“Remedial Action” means investigation, evaluation, risk assessment, monitoring, response, removal, clean-up, remediation, corrective action or other terms of similar import and any related closure, post-closure, operations and maintenance or engineering control activities.

“Restricted Employee” means any ST Restricted Employee, any Intel Restricted Employee or any Numonyx Restricted Employee.

“Retained Equipment” means the equipment identified on Schedule 5.17 to the Intel ATA Disclosure Letter.

“Sales Taxes” means any excise, value added, registration, stamp, recording, documentary, conveyancing, transfer, sales, use and any other similar Taxes arising out of the transfer of the applicable Transferred Assets.

“Securities Act” means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Securityholders’ Agreement” means the Securityholders’ Agreement by and among Intel (as used in this definition, “Intel” has the meaning ascribed to such term in the Securityholders’ Agreement), ST, the FP Parties, Holdings, the Noteholders, and the Guarantors, dated as of the Closing Date.

“Series A Preferred Shares” means Series A convertible preferred shares of Holdings, par value one euro per share.

“Series A-1 Preferred Shares” means Series A-1 non-convertible preferred shares of Holdings, par value one eurocent per share.

“Share Encumbrances” means Liens, claims, options, rights of other parties, voting trusts, proxies, shareholder or similar agreements, encumbrances or other restrictions (other than restrictions imposed by applicable securities laws).

“Shares” means the Ordinary Shares, the Preferred Shares and any other shares of the share capital of Holdings issued on or after the date of the Securityholders’ Agreement.

“Signing Date” means May 22, 2007.

“Specified Intel Representations” means any representation or warranty made by Intel in Sections 3.1 through 3.24 (other than Section 3.17) of the Intel Asset Transfer Agreement or Sections 3.1(a) through 3.1(g) of the Master Agreement (other than Section 3.17 of the Intel Asset Transfer Agreement).

“ST” means STMicroelectronics N.V., a limited liability company organized under the laws of The Netherlands, with corporate seat in Amsterdam, The Netherlands.

“ST Ancillary Agreements” means the ST Assignment and Assumption Agreement, ST Bill of Sale, ST Intellectual Property Agreement, ST Transition Services Agreements, ST Facility Transfer Agreements, ST Joint Development Agreement, ST (EWS) Supply Agreement,

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

ST Back-End Supply Agreement, ST M5 Consortium Agreement, ST R2 Consortium Agreement, TFR Indemnification Agreement, Bank Guarantee, ST Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreements, ST Patent Assignment, ST Trademark Assignment, the Numonyx Transition Services Agreement, ST Secondment Agreement and ST Entity Capitalization and Assignment Agreement.

“ST Approvals” means the required consents, waivers and approvals of ST set forth on Schedule 3.3 of the ST ACA Disclosure Letter and Schedule 3.2(c) of the ST Master Agreement Disclosure Letter.

“ST Asset Contribution Agreement” means that certain Asset Contribution Agreement entered into by and among ST, Holdings and Numonyx dated as of the Closing Date.

“ST Assignment and Assumption Agreement” means, collectively, the Assignment and Assumption Agreements to be entered into by Numonyx or its Affiliates, on one hand, and ST or its Affiliates, on the other hand, as of the Closing Date.

“ST Assignment and Assumption of Excluded Assets and Excluded Liabilities Agreement” shall have the meaning set forth in Section 2.4 of the ST Asset Contribution Agreement.

“ST Back-End Supply Agreement” means the ST Back-End Supply Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Bill of Sale” means any bill of sale, deed of contribution or other similar document reasonably requested by any Party and reasonably necessary to transfer any ST Transferred Asset in accordance with applicable law to be executed by one or more ST Transferors in favor of Holdings or a Subsidiary of Holdings as of the Closing Date.

“ST Business Employees” means the employees who are identified on Schedule 3.12(c) of the ST ACA Disclosure Letter.

“ST Entity Capitalization and Assignment Agreement” means the ST Entity Capitalization and Assignment Agreement entered into by and between ST and Numonyx, dated as of the Closing Date and effective immediately prior to the Closing.

“ST (EWS) Supply Agreement” means the ST (EWS) Supply Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Facility Transfer Agreements” means the agreements and other documents used to consummate or implement the transfer by ST and its Subsidiaries to Numonyx and its Subsidiaries of the assets described therein which shall be substantially based on the ST Facility Transfer Term Sheets.

“ST Facility Transfer Term Sheets” means the term sheets attached to Schedule 4.22(b) to the ST Master Agreement Disclosure Letter reflecting the terms and conditions upon which the agreements and other related documents effecting the transfer by ST and its Subsidiaries of the assets described therein to Numonyx and its Subsidiaries shall be substantially based.

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

“ST Intellectual Property Agreement” means the Intellectual Property Agreement entered into by and between ST, Holdings and Numonyx dated as of the Closing Date.

“ST Joint Development Agreement” means the Joint Development Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Master Agreement Disclosure Letter” means the disclosure letter, as delivered by ST to Intel and FP as of the Signing Date (with such amendments as have been subsequently made in accordance with Section 4.12 of such Agreement), containing the Schedules required by the provisions of this Agreement.

“ST M5 Consortium Agreement” means the ST M5 Consortium Agreement by and between Numonyx Italy and STMicroelectronics S.r.l. dated October 24, 2007, as amended.

“ST Notes” means the 9.5% Subordinated Notes due 2038 to be issued by Holdings to ST, in substantially the form attached as Exhibit A to the Note Agreement.

“ST Numonyx Shares” shall have the meaning set forth in Section 2.6(a) of the ST Asset Contribution Agreement.

“ST Patent Assignment” means any agreement for the assignment of ST Transferred Patents by an ST Transferor to Numonyx dated as of the Closing Date.

“ST Restricted Employees” shall have the meaning set forth in Section 4.7(b) of the Master Agreement.

“ST R2 Consortium Agreement” means the ST R2 Consortium Agreement by and between Numonyx Italy and STMicroelectronics S.r.l., dated October 24, 2007, as amended.

“ST Secondment Agreement” means the ST Personnel Secondment Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“ST Trademark Assignment” means any agreement for the assignment of ST Transferred Trademarks by ST to Numonyx dated as of the Closing Date.

“ST Transferred Assets” shall have the meaning set forth in Section 2.1 of the ST Asset Contribution Agreement.

“ST Transition Services Agreement” means the ST Transition Services Agreement entered into by and between ST and Numonyx dated as of the Closing Date.

“Stacked Memory Products” means the assembly of multiple Memory Devices packaged together as a single product unit which fits within the footprint associated with a single Memory Device socket. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to include within the Intel Transferred Assets or ST Transferred Assets any Intellectual Property for non-NOR Flash Memory Integrated Circuits that may be components of Stacked Memory Products.

“Straddle Period” shall have the meaning set forth in Section 5.8(a) of the Intel Asset Transfer Agreement.

“Subsidiary” means, with respect to any Person, (i) any corporation, limited liability company or other similar entity as to which more than 50% of the outstanding capital stock or other securities having voting rights or power is owned or controlled, directly or indirectly, by such Person and/or by one or more of such Person’s direct or indirect subsidiaries and (ii) any Person with a partnership, joint venture or other similar relationship between such Persons and any other Person, *provided, however*; that with respect to Intel, Silicon Philippines, Inc., a corporation organized and existing under Philippines law (“SPI”), shall be deemed to be a Subsidiary of Intel for purposes of the Transaction Documents and for convenience only, and such inclusion of SPI within this definition shall not imply that such entity is a subsidiary or affiliate of Intel for any purpose independent of the Transaction Documents.

“Taxes” means (i) all foreign, federal, state, local and other net income, gross income, gross receipts, sales, use, ad valorem, value added, intangible, unitary, capital gain, transfer, franchise, profits, license, lease, service, service use, withholding, backup withholding, payroll, employment, estimated, excise, severance, stamp, occupation, premium, property, prohibited transactions, windfall or excess profits, value added tax, goods and services tax, social service tax, import tax, export tax, or other taxes of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, (ii) any Liability for payment of amounts described in clause (i) whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period, or otherwise through operation of law, and (iii) any Liability for the payment of amounts described in clause (i) or (ii) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person for Taxes; and the term “Tax” means any one of the foregoing Taxes.

“Tax Returns” means all returns, declarations, reports, statements, information statements, forms or other documents filed or required to be filed with respect to any Tax.

“TFR Indemnification Agreement” means the TFR Indemnification Agreement entered into by and between Numonyx and ST dated as of the Closing Date.

“Third Actuary” shall have the meaning set forth in Section 5.11(c) of the Intel Asset Transfer Agreement and the ST Asset Contribution Agreement.

“Trademarks” means trademarks and registrations and applications therefor.

“Trade Secrets” means confidential know how, inventions, discoveries, concepts, ideas, methods, processes, designs, formulae, technical data, source code, drawings, specifications (including logic specifications), data bases, data sheets, customer lists, Customer Data and other confidential information that constitute trade secrets under Applicable Law, in each case excluding any rights in respect of any of the foregoing that comprise Copyrights, mask work rights or Patents.

“Transaction Documents” means the Master Agreement, the Intel Asset Transfer Agreement, the ST Asset Contribution Agreement, the FP Purchase Agreement, the Intel

**ATTACHMENT  
TO INTEL ASSET TRANSFER AGREEMENT**

Ancillary Agreements, the ST Ancillary Agreements, the Securityholders' Agreement, the Note Agreement, the Notes, the Guarantees, the Contribution Agreement, Pledge Agreement, Infrastructure Procurement Agreement, the Confidentiality Agreements, and all of the documents contemplated by any such agreement or entered into by any of the Parties thereto or their Subsidiaries in connection with the transactions contemplated by such agreements.

“Uncapped Intel Losses” means Losses (i) pursuant to a breach of any of Sections 3.2 (Authorization and Enforceability), 3.10 (Tax Matters), 3.12(a) (Pension Plans), 3.15 (Environmental Matters), and 3.22(a) (Organization) and 3.22(b) (Capitalization), (ii) pursuant to Section 6.2(a)(iii), (iii) resulting from a breach of any covenant other than those set forth in Section 4.9 of the Master Agreement and (iv) resulting from a willful breach of any covenant set forth in Section 4.9 of the Master Agreement.

“Unicredit” means Unicredit Banca D’Impresa S.p.A.

## INTEL CORPORATION

## 2006 EQUITY INCENTIVE PLAN

**TERMS AND CONDITIONS RELATING TO NON-QUALIFIED STOCK OPTIONS**  
**GRANTED TO \_\_\_\_\_ ON APRIL 17, 2008 UNDER THE INTEL**  
**CORPORATION 2006 EQUITY INCENTIVE PLAN**

**1. TERMS OF OPTION**

The following standard terms and conditions ("Standard Terms") apply to Non-Qualified Stock Options granted to \_\_\_\_\_ under the Intel Corporation 2006 Equity Incentive Plan (the "2006 Plan") (other than grants made under the SOP Plus or ELTSOP programs).

**2. NONQUALIFIED STOCK OPTION**

The option is not intended to be an incentive stock option under Section 422 of the Internal Revenue Code of 1986, as amended (the "Code") and will be interpreted accordingly.

**3. OPTION PRICE**

The exercise price of the option (the "option price") is 100% of the market value of the common stock of Intel Corporation ("Intel" or the "Corporation"), \$.001 par value (the "Common Stock"), on the date of grant, as specified in the Notice of Grant. "Market value" means the average of the highest and lowest sales prices of the Common Stock as reported by NASDAQ.

**4. TERM OF OPTION AND EXERCISE OF OPTION**

To the extent the option has become exercisable (vested) during the periods indicated in the Notice of Grant and has not been previously exercised, and subject to termination or acceleration as provided in these Standard Terms and the requirements of these Standard Terms, the Notice of Grant and the 2006 Plan, you may exercise the option to purchase up to the number of shares of the Common Stock set forth in the Notice of Grant. Notwithstanding anything to the contrary in Sections 6 through 9 hereof, no part of the option may be exercised after seven (7) years from the date of grant.

The process for exercising the option (or any part thereof) is governed by these Standard Terms, the Notice of Grant, the 2006 Plan and your agreements with Intel's stock plan administrator. Exercises of stock options will be processed as soon as practicable. The option price may be paid (a) in cash, (b) by arrangement with Intel's stock plan administrator which is acceptable to Intel where payment of the option price is made pursuant to an irrevocable direction to the broker to deliver all or part of the proceeds from the sale of the shares of the



Common Stock issuable under the option to Intel, (c) by delivery of any other lawful consideration approved in advance by the Committee of the Board of Directors of Intel established pursuant to the 2006 Plan (the "Committee") or its delegate, or (d) in any combination of the foregoing. Fractional shares may not be exercised. Shares of the Common Stock will be issued as soon as practicable. You will have the rights of a stockholder only after the shares of the Common Stock have been issued. For administrative or other reasons, Intel may from time to time suspend the ability of employees to exercise options for limited periods of time.

Notwithstanding the above, Intel shall not be obligated to deliver any shares of the Common Stock during any period when Intel determines that the exercisability of the option or the delivery of shares hereunder would violate any federal, state or other applicable laws.

Notwithstanding anything to the contrary in these Standard Terms or the applicable Notice of Grant, Intel may reduce your unvested options if you change classification from a full-time employee to a part-time employee.

IF AN EXPIRATION DATE DESCRIBED HEREIN FALLS ON A WEEKDAY, YOU MUST EXERCISE YOUR OPTIONS BEFORE 3:45 P.M. NEW YORK TIME ON THE EXPIRATION DATE.

IF AN EXPIRATION DATE DESCRIBED HEREIN FALLS ON A WEEKEND OR ANY OTHER DAY ON WHICH THE NASDAQ STOCK MARKET ("NASDAQ") IS NOT OPEN, YOU MUST EXERCISE YOUR OPTIONS BEFORE 3:45 P.M. NEW YORK TIME ON THE LAST NASDAQ BUSINESS DAY PRIOR TO THE EXPIRATION DATE.

#### **5. SUSPENSION OR TERMINATION OF OPTION FOR MISCONDUCT**

If at any time the Committee of the Board of Directors of the Corporation established pursuant to the 2006 Plan (the "Committee"), including any Subcommittee or "Authorized Officer" (as defined in Section 8(a)(v) of the 2006 Plan) notifies the Corporation that they reasonably believe that you have committed an act of misconduct as described in Section 8. (a)(v) of the 2006 Plan (embezzlement, fraud, dishonesty, nonpayment of any obligation owed to the Corporation, breach of fiduciary duty or deliberate disregard of Corporation rules resulting in loss, damage or injury to the Corporation, an unauthorized disclosure of any Corporation trade secret or confidential information, any conduct constituting unfair competition, inducing any customer to breach a contract with the Corporation or inducing any principal for whom the Corporation acts as agent to terminate such agency relationship), the vesting of your option and your right to exercise your option, to the extent it is vested, may be suspended pending a determination of whether an act of misconduct has been committed. If the Corporation determines that you have committed an act of misconduct, your option shall be cancelled and neither you nor any beneficiary shall be entitled to any claim with respect to your option whatsoever. Any determination by the Committee or an Authorized Officer with respect to the foregoing shall be final, conclusive, and binding on all interested parties.

## **6. TERMINATION OF EMPLOYMENT**

Except as expressly provided otherwise in these Standard Terms, if your employment by the Corporation terminates for any reason, whether voluntarily or involuntarily, other than death, Disablement (defined below), Retirement (defined below) or discharge for misconduct, you may exercise any portion of the option that had vested on or prior to the date of termination at any time prior to ninety (90) days after the date of such termination. The option shall terminate on the 90<sup>th</sup> day to the extent that it is unexercised. All unvested stock options shall be cancelled on the date of employment termination, regardless of whether such employment termination is voluntary or involuntary.

For purposes of this Section 6, your employment is not deemed terminated if, prior to sixty (60) days after the date of termination from Intel or a Subsidiary, you are rehired by Intel or a Subsidiary on a basis that would make you eligible for future Intel stock option grants, nor would your transfer from Intel to any Subsidiary or from any one Subsidiary to another, or from a Subsidiary to Intel be deemed a termination of employment. Further, your employment with any partnership, joint venture or corporation not meeting the requirements of a Subsidiary in which Intel or a Subsidiary is a party shall be considered employment for purposes of this provision if either (a) the entity is designated by the Committee as a Subsidiary for purposes of this provision or (b) you are designated as an employee of a Subsidiary for purposes of this provision.

## **7. DEATH**

Except as expressly provided otherwise in these Standard Terms, if you die while employed by the Corporation, the executor of your will, administrator of your estate or any successor trustee of a grantor trust may exercise the option, to the extent not previously exercised and whether or not vested on the date of death, at any time prior to the end of the term of option (see Section 4).

Except as expressly provided otherwise in these Standard Terms, if you die prior to ninety (90) days after terminating your employment with the Corporation, the executor of your will or administrator of your estate may exercise the option, to the extent not previously exercised and to the extent the option had vested on or prior to the date of your employment termination, at any time prior to the end of the term of option (see Section 4).

The option shall terminate on the applicable expiration date described in this Section 7, to the extent that it is unexercised.

## **8. DISABILITY**

Except as expressly provided otherwise in these Standard Terms, following your termination of employment due to Disablement, you may exercise the option, to the extent not previously exercised and whether or not the option had vested on or prior to the date of employment termination, at any time prior to the end of the term of option (see Section 4); provided, however, that while the claim of Disablement is pending, options that were unvested at termination of

employment may not be exercised and options that were vested at termination of employment may be exercised only during the period set forth in Section 6 hereof. For purposes of these Standard Terms, "Disablement" shall be determined in accordance with the standards and procedures of the then-current Long Term Disability Plan maintained by the Corporation or the Subsidiary that employs you, and in the event you are not a participant in a then-current Long Term Disability Plan maintained by the Corporation or the Subsidiary that employs you, "Disablement" shall have the same meaning as disablement is defined in the Intel Long Term Disability Plan, which is generally a physical condition arising from an illness or injury, which renders an individual incapable of performing work in any occupation, as determined by the Corporation.

## **9. RETIREMENT**

For purposes of by these Standard Terms, "Retirement" shall mean either Standard Retirement (as defined below) or the Rule of 75 (as defined below). Following your Retirement, the vesting of the option, to the extent that it had not vested on or prior to the date of your Retirement, shall be accelerated as follows:

- (a) If you retire at or after age 60 ("Standard Retirement"), you will receive one year of additional vesting from your date of Retirement for every five (5) years that you have been employed by the Corporation (measured in complete, whole years). No vesting acceleration shall occur for any periods of employment of less than five (5) years; or
- (b) If, when you terminate employment with Intel, your age plus years of service (in each case measured in complete, whole years) equals or exceeds 75 ("Rule of 75"), you will receive accelerated vesting of any portion of the option that would have vested prior to 365 days from the date of your Retirement.

You will receive vesting acceleration pursuant to either Standard Retirement or the Rule of 75, but not both. Following your Retirement from the Corporation, you may exercise the option at any time prior to the end of the term of option (see Section 4), to the extent that it had vested as of the date of your Retirement or to the extent that vesting of the option is accelerated pursuant to this Section 9.

## **10. INCOME TAXES WITHHOLDING**

Nonqualified stock options are taxable upon exercise. To the extent required by applicable federal, state or other law, you shall make arrangements satisfactory to Intel for the satisfaction of any withholding tax obligations that arise by reason of an option exercise and, if applicable, any sale of shares of the Common Stock. Intel shall not be required to issue shares of the Common Stock or to recognize any purported transfer of shares of the Common Stock until such obligations are satisfied. The Committee may permit these obligations to be satisfied by having Intel withhold a portion of the shares of the Common Stock that otherwise would be issued to you upon exercise of the option, or to the extent permitted by the Committee, by tendering shares of the Common Stock previously acquired.

## **11. TRANSFERABILITY OF OPTION**

Unless otherwise provided by the Committee, each option shall be transferable only

- (a) pursuant to your will or upon your death to your beneficiaries, or
- (b) by gift to your Immediate Family (defined below), partnerships whose only partners are you or members of your Immediate Family, limited liability companies whose only shareholders are you or members of your Immediate Family, or trusts established solely for the benefit of you or members of your Immediate Family, or
- (c) by gift to a foundation in which you and/or members of your Immediate Family control the management of the foundation's assets.

For purposes of these Standard Terms, "Immediate Family" is defined as your spouse or domestic partner, children, grandchildren, parents, or siblings.

With respect to transfers by gift under subsection (b), options are transferable whether vested or not at the time of transfer. With respect to transfers by gift under subsection (c), options are transferable only to the extent the options are vested at the time of transfer. Any purported assignment, transfer or encumbrance that does not qualify under subsections (a), (b) and (c) above shall be void and unenforceable against the Corporation.

Any option transferred by you pursuant to this section shall not be transferable by the recipient except by will or the laws of descent and distribution.

The transferability of options is subject to any applicable laws of your country of residence or employment.

## **12. DISPUTES**

The Committee or its delegate shall finally and conclusively determine any disagreement concerning your option.

## **13. AMENDMENTS**

The 2006 Plan and the option may be amended or altered by the Committee or the Board of Directors of Intel to the extent provided in the 2006 Plan.

## **14. THE 2006 PLAN AND OTHER AGREEMENTS; OTHER MATTERS**

- (a) The provisions of these Standard Terms and the 2006 Plan are incorporated into the Notice of Grant by reference. You hereby acknowledge that a copy of the 2006 Plan has been made available to you. Certain capitalized terms used in these Standard Terms are defined in the 2006 Plan.

These Standard Terms, the Notice of Grant and the 2006 Plan constitute the entire understanding between you and the Corporation regarding the option. Any prior agreements, commitments or negotiations concerning the option are superseded.

The grant of an option to an employee in any one year, or at any time, does not obligate Intel or any Subsidiary to make a grant in any future year or in any given amount and should not create an expectation that Intel or any Subsidiary might make a grant in any future year or in any given amount.

- (b) Options are not part of your employment contract (if any) with the Corporation, your salary, your normal or expected compensation, or other remuneration for any purposes, including for purposes of computing severance pay or other termination compensation or indemnity.
- (c) Notwithstanding any other provision of these Standard Terms, if any changes in the financial or tax accounting rules applicable to the options covered by these Standard Terms shall occur which, in the sole judgment of the Committee, may have an adverse effect on the reported earnings, assets or liabilities of the Corporation, the Committee may, in its sole discretion, modify these Standard Terms or cancel and cause a forfeiture with respect to any unvested options at the time of such determination.
- (d) Nothing contained in these Standard Terms creates or implies an employment contract or term of employment upon which you may rely.
- (e) To the extent that the option refers to the Common Stock of Intel Corporation, and as required by the laws of your country of residence or employment, only authorized but unissued shares thereof shall be utilized for delivery upon exercise by the holder in accord with the terms hereof.
- (f) Copies of Intel Corporation's Annual Report to Stockholders for its latest fiscal year and Intel Corporation's latest quarterly report are available, without charge, at the Corporation's business office.
- (g) Because these Standard Terms relate to terms and conditions under which you may purchase Common Stock of Intel, a Delaware corporation, an essential term of these Standard Terms is that it shall be governed by the laws of the State of Delaware, without regard to choice of law principles of Delaware or other jurisdictions. Any action, suit, or proceeding relating to these Standard Terms or the option granted hereunder shall be brought in the state or federal courts of competent jurisdiction in the State of California.
- (h) Notwithstanding any other provision of these Standard Terms, if any changes in the law or the financial or tax accounting rules applicable to the options covered by these Standard Terms shall occur, the Corporation may, in its sole discretion, (1) modify these Standard Terms to impose such restrictions or procedures with respect to the options (whether vested or unvested), the shares issued or issuable pursuant to this option and/or

any proceeds or payments from or relating to such shares as it determines to be necessary or appropriate to comply with applicable law or to address, comply with or offset the economic effect to the Corporation of any accounting or administrative matters relating thereto, or (2) cancel and cause a forfeiture with respect to any unvested options at the time of such determination.

7.

**AMENDMENT TO ALL GRANT AGREEMENTS OF  
RESTRICTED STOCK UNITS AND STOCK OPTIONS GRANTED UNDER  
THE INTEL CORPORATION 2006 EQUITY INCENTIVE PLAN, INTEL  
CORPORATION 2004 EQUITY INCENTIVE PLAN AND 1997 STOCK OPTION PLAN  
AND ARE OUTSTANDING AS OF JANUARY 15, 2008**

Effective January 15, 2008, the grant agreements of restricted stock units and stock options that were granted before, and are outstanding as of, January 15, 2008 are amended by the deletion of any section with the title "Leaves of Absence."

**AMENDMENT TO ALL GRANT AGREEMENTS OF  
RESTRICTED STOCK UNITS AND STOCK OPTIONS GRANTED UNDER  
THE INTEL CORPORATION 2006 EQUITY INCENTIVE PLAN**

1. Effective January 15, 2008, the grant agreements to be used for the grant of restricted stock units and stock options under the Intel Corporation 2006 Equity Incentive Plan after January 15, 2008 are amended by the deletion of any section with the title "Leaves of Absence."
2. Effective January 15, 2008, the grant agreements to be used for the grant of stock options under the Intel Corporation 2006 Equity Incentive Plan on or after January 15, 2008 are amended by modifying the applicable subsection to the section with the title "The 2006 Plan and Other Agreements; Other Matters," which reads as follows:

Notwithstanding any other provision of this Agreement, if any changes in the law or the financial or tax accounting rules applicable to the options covered by this Agreement shall occur, the Corporation may, in its sole discretion, (1) modify this Agreement to impose such restrictions or procedures with respect to the options (whether vested or unvested), the shares issued or issuable pursuant to this option and/or any proceeds or payments from or relating to such shares as it determines to be necessary or appropriate to comply with applicable law or to address, comply with or offset the economic effect to the Corporation of any accounting or administrative matters relating thereto, or (2) cancel and cause a forfeiture with respect to any unvested options at the time of such determination.

3. Effective January 15, 2008, the grant agreements to be used for the grant of restricted stock units under the Intel Corporation 2006 Equity Incentive Plan on or after January 15, 2008 are amended by modifying the applicable subsection to the section with the title "The 2006 Plan and Other Agreements; Other Matters," which reads as follows

Notwithstanding any other provision of these Standard Terms, if any changes in law or the financial or tax accounting rules applicable to the RSUs covered by these Standard Terms shall occur, the Corporation may, in its sole discretion, (1) modify these Standard Terms to impose such restrictions or procedures with respect to the RSUs (whether vested or unvested), the shares issued or issuable pursuant to the RSUs and/or any proceeds or payments from or relating to such shares as it determines to be necessary or appropriate to comply with applicable law or to address, comply with or offset the economic effect to the Corporation of any accounting or administrative matters relating thereto, or (2) cancel and cause a forfeiture with respect to any unvested RSUs at the time of such determination.



**INTEL CORPORATION**  
**STATEMENT SETTING FORTH THE COMPUTATION**  
**OF RATIOS OF EARNINGS TO FIXED CHARGES**

(Dollars in Millions)

	Three Months Ended	
	March 29, 2008	March 31, 2007
Income before taxes	\$ 2,171	\$ 1,873
Adjustments:		
Add fixed charges	34	32
Subtract interest capitalized	(19)	(14)
Income before taxes and fixed charges	<u>\$ 2,186</u>	<u>\$ 1,891</u>
Fixed charges:		
Interest <sup>1</sup>	\$ —	\$ 3
Capitalized interest	19	14
Estimated interest component of rental expense	15	15
Total	<u>\$ 34</u>	<u>\$ 32</u>
Ratio of earnings before taxes and fixed charges, to fixed charges	64	59

<sup>1</sup> Interest within provision for taxes on the consolidated condensed statements of income is not included.

The following certification includes references to an evaluation of the effectiveness of the design and operation of our “disclosure controls and procedures” and to certain matters related to our “internal control over financial reporting.” Item 4 of Part I of this Form 10-Q presents the conclusions of the CEO and the CFO about the effectiveness of our disclosure controls and procedures based on and as of the date of such evaluation (relating to Item 4 of the certification), and contains additional information concerning disclosures to our Audit Committee and independent auditors with regard to deficiencies in internal control over financial reporting and fraud and related matters (Item 5 of the certification).

#### CERTIFICATION

I, Paul S. Otellini, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Intel Corporation;
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: May 1, 2008

By: /s/ Paul S. Otellini  
Paul S. Otellini  
President and Chief Executive Officer

The following certification includes references to an evaluation of the effectiveness of the design and operation of our “disclosure controls and procedures” and to certain matters related to our “internal control over financial reporting.” Item 4 of Part I of this Form 10-Q presents the conclusions of the CEO and the CFO about the effectiveness of our disclosure controls and procedures based on and as of the date of such evaluation (relating to Item 4 of the certification), and contains additional information concerning disclosures to our Audit Committee and independent auditors with regard to deficiencies in internal control over financial reporting and fraud and related matters (Item 5 of the certification).

#### CERTIFICATION

I, Stacy J. Smith, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Intel Corporation;
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: May 1, 2008

By: /s/ Stacy J. Smith  
Stacy J. Smith  
Vice President, Chief Financial Officer and Principal  
Accounting Officer

**CERTIFICATION**

Each of the undersigned hereby certifies, for the purposes of section 1350 of chapter 63 of title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, in his capacity as an officer of Intel Corporation (Intel), that, to his knowledge, the Quarterly Report of Intel on Form 10-Q for the period ended March 29, 2008, fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 and that the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of Intel. This written statement is being furnished to the Securities and Exchange Commission as an exhibit to such Form 10-Q. A signed original of this statement has been provided to Intel and will be retained by Intel and furnished to the Securities and Exchange Commission or its staff upon request.

Date: May 1, 2008

By: /s/ Paul S. Otellini  
Paul S. Otellini  
President and Chief Executive Officer

Date: May 1, 2008

By: /s/ Stacy J. Smith  
Stacy J. Smith  
Vice President, Chief Financial Officer and Principal  
Accounting Officer