



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 July 29, 2007

or

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

Commission File Number 000-06920

**Applied Materials, Inc.**

*(Exact name of registrant as specified in its charter)*

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

**3050 Bowers Avenue, P.O. Box 58039**

**Santa Clara, California**  
*(Address of principal executive offices)*

**94-1655526**  
*(I.R.S. Employer  
Identification No.)*

**95052-8039**  
*(Zip Code)*

**(Registrant's telephone number, including area code)**  
**(408) 727-5555**

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 or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer

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

Number of shares outstanding of the issuer's common stock as of July 29, 2007: 1,378,105,310

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

APPLIED MATERIALS, INC.  
CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(Unaudited)			
	(In thousands, except per share amounts)			
Net sales	\$ 2,543,443	\$ 2,560,984	\$ 6,648,721	\$ 7,367,812
Cost of products sold	1,320,089	1,344,594	3,543,043	3,952,274
Gross margin	1,223,354	1,216,390	3,105,678	3,415,538
Operating expenses:				
Research, development and engineering	304,326	292,584	853,086	871,195
Marketing and selling	123,810	115,969	322,289	334,988
General and administrative	117,083	134,359	333,889	375,561
Restructuring and asset impairments	(2,646)	1,616	210,623	23,382
Income from operations	680,781	671,862	1,385,791	1,810,412
Pre-tax loss of equity method investment	—	7,348	—	17,209
Interest expense	8,848	10,075	26,788	29,388
Interest income	50,578	32,468	147,899	96,593
Income before income taxes	722,511	686,907	1,506,902	1,860,408
Provision for income taxes	210,471	213,392	439,268	571,973
Net income	\$ 512,040	\$ 473,515	\$ 1,067,634	\$ 1,288,435
Earnings per share:				
Basic	\$ 0.33	\$ 0.34	\$ 0.68	\$ 0.92
Diluted	\$ 0.33	\$ 0.34	\$ 0.67	\$ 0.91
Weighted average number of shares:				
Basic	1,550,744	1,385,519	1,571,534	1,397,890
Diluted	1,562,615	1,407,264	1,586,878	1,415,720

See accompanying Notes to Consolidated Condensed Financial Statements.

**APPLIED MATERIALS, INC.**  
**CONSOLIDATED CONDENSED BALANCE SHEETS\***

	<u>October 29,</u> <u>2006</u>	<u>July 29,</u> <u>2007</u>
(In thousands)		
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 861,463	\$ 1,112,675
Short-term investments	1,035,875	1,295,261
Accounts receivable, net	2,026,199	2,240,290
Inventories	1,406,777	1,361,875
Deferred income taxes	455,473	481,019
Assets held for sale	37,211	17,370
Other current assets	258,021	302,945
Total current assets	<u>6,081,019</u>	<u>6,811,435</u>
Long-term investments	1,314,861	1,349,211
Property, plant and equipment	2,753,883	2,782,510
Less: accumulated depreciation and amortization	<u>(1,729,589)</u>	<u>(1,736,039)</u>
Net property, plant and equipment	1,024,294	1,046,471
Goodwill, net	572,558	652,900
Purchased technology and other intangible assets, net	201,066	221,977
Equity-method investment	144,431	127,223
Deferred income taxes and other assets	142,608	156,166
Total assets	<u>\$ 9,480,837</u>	<u>\$ 10,365,383</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of long-term debt	\$ 202,535	\$ 202,528
Accounts payable and accrued expenses	2,023,651	2,203,223
Income taxes payable	209,859	143,012
Total current liabilities	<u>2,436,045</u>	<u>2,548,763</u>
Long-term debt	204,708	204,354
Other liabilities	188,684	224,129
Total liabilities	<u>2,829,437</u>	<u>2,977,246</u>
Stockholders' equity:		
Common stock	13,917	13,781
Additional paid-in capital	3,678,202	4,212,748
Retained earnings	9,472,303	10,525,120
Treasury stock	(6,494,012)	(7,375,271)
Accumulated other comprehensive income (loss)	(19,010)	11,759
Total stockholders' equity	<u>6,651,400</u>	<u>7,388,137</u>
Total liabilities and stockholders' equity	<u>\$ 9,480,837</u>	<u>\$ 10,365,383</u>

\* Amounts as of July 29, 2007 are unaudited. Amounts as of October 29, 2006 are derived from the October 29, 2006 audited consolidated financial statements.

See accompanying Notes to Consolidated Condensed Financial Statements.

**APPLIED MATERIALS, INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**

	Nine Months Ended	
	July 30, 2006	July 29, 2007
	(Unaudited) (In thousands)	
<b>Cash flows from operating activities:</b>		
Net income	\$ 1,067,634	\$ 1,288,435
<b>Adjustments required to reconcile net income to cash provided by operating activities:</b>		
Depreciation and amortization	197,385	187,310
Loss on fixed asset retirements	26,181	15,961
Restructuring and asset impairments	210,623	23,382
Deferred income taxes	(63,740)	(6,234)
Excess tax benefits from equity-based compensation plans	(25,103)	(16,990)
Acquired in-process research and development expense	14,000	4,900
Net recognized loss on investments	29,874	5,097
Pretax loss of equity-method investment	—	17,209
Equity-based compensation	160,716	130,308
<b>Changes in operating assets and liabilities, net of amounts acquired:</b>		
Accounts receivable, net	(661,419)	(189,308)
Inventories	(154,974)	46,331
Other current assets	(1,438)	(36,810)
Other assets	196	3,019
Accounts payable and accrued expenses	394,822	129,120
Income taxes payable	122,828	(78,212)
Other liabilities	(11,079)	8,380
<b>Cash provided by operating activities</b>	<b>1,306,506</b>	<b>1,531,898</b>
<b>Cash flows from investing activities:</b>		
Capital expenditures	(120,103)	(204,236)
Cash paid for acquisition, net of cash acquired	(329,326)	(136,828)
Investment in equity-method investment	(147,280)	—
Proceeds from disposition of assets held for sale	16,206	23,358
Proceeds from sales and maturities of investments	3,846,080	2,114,602
Purchases of investments	(2,749,584)	(2,376,791)
<b>Cash provided by (used for) investing activities</b>	<b>515,993</b>	<b>(579,895)</b>
<b>Cash flows from financing activities:</b>		
Short-term debt repayments	(5,399)	(250)
Proceeds from common stock issuances	172,076	436,443
Common stock repurchases	(1,522,105)	(931,996)
Excess tax benefits from equity-based compensation plans	25,103	16,990
Payment of dividends to stockholders	(174,069)	(222,537)
<b>Cash used for financing activities</b>	<b>(1,504,394)</b>	<b>(701,350)</b>
Effect of exchange rate changes on cash and cash equivalents	10	559
Increase in cash and cash equivalents	318,115	251,212
Cash and cash equivalents — beginning of period	990,342	861,463
Cash and cash equivalents — end of period	<u>\$ 1,308,457</u>	<u>\$ 1,112,675</u>
<b>Supplemental cash flow information:</b>		
Cash payments for income taxes	\$ 370,674	\$ 653,351
Cash payments for interest	\$ 14,190	\$ 14,081

See accompanying Notes to Consolidated Condensed Financial Statements.

**APPLIED MATERIALS, INC.**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS**  
**(Unaudited)**

**Note 1 Basis of Presentation and Equity-Based Compensation**

***Basis of Presentation***

In the opinion of management, the unaudited interim consolidated condensed financial statements of Applied Materials, Inc. and its subsidiaries (Applied or the Company) included herein have been prepared on a basis consistent with the October 29, 2006 audited consolidated financial statements and include all material adjustments, consisting of normal recurring adjustments, necessary to fairly present the information set forth therein. These unaudited interim consolidated condensed financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto included in Applied's Annual Report on Form 10-K for the fiscal year ended October 29, 2006 (2006 Form 10-K). Applied's results of operations for the three and nine months ended July 29, 2007 are not necessarily indicative of future operating results.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (United States) requires management to make judgments, estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ materially from those estimates.

In fiscal 2007, Applied changed its presentation of accretion of discounts and amortization of premiums on its investment portfolio and gains and losses on sales of investments in the Consolidated Condensed Statements of Cash Flows. This revision did not result in material changes to operating cash flows in the accompanying Consolidated Condensed Statements of Cash Flows. The accompanying consolidated condensed financial statements for fiscal 2006 have been conformed to the fiscal 2007 presentation.

***Sales and Value Added Taxes***

Taxes collected from customers and remitted to governmental authorities are presented on a net basis in the accompanying Consolidated Condensed Statements of Operations.

***Interest Income***

Interest income consists of interest earnings, gains and losses on investment securities, and certain portfolio management costs.

***Equity-Based Compensation***

Applied has adopted stock plans that provide for grants to employees of equity-based awards, including stock options, restricted stock and restricted stock units (also referred to as "performance shares" under the Applied Materials, Inc. Employee Stock Incentive Plan). In addition, the Employee Stock Incentive Plan provides for the automatic grant of restricted stock units to non-employee directors and permits the grant of equity-based awards to consultants. Applied also has two Employee Stock Purchase Plans (ESPP) for United States and international employees, respectively, which enable employees to purchase Applied common stock.

During the three months ended July 30, 2006 and July 29, 2007, Applied recognized equity-based compensation expense related to stock options, ESPP shares, restricted stock units and restricted stock of \$54 million and \$47 million, respectively. During the three months ended July 30, 2006 and July 29, 2007, Applied recognized income tax benefits related to equity-based compensation of \$5 million and \$13 million, respectively. During the first nine months of fiscal 2006, Applied recognized total equity-based compensation expense of \$161 million and a related tax benefit of \$31 million. During the first nine months of fiscal 2007, Applied recognized total equity-based compensation expense of \$130 million and a related tax benefit of \$37 million. The equity-based compensation expense related to restricted stock units and restricted stock for the three months ended July 30, 2006 and July 29, 2007 was \$9 million and \$29 million, respectively, and for the nine months ended July 30, 2006 and July 29, 2007

APPLIED MATERIALS, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

was \$20 million and \$75 million, respectively. The estimated fair value of Applied's equity-based awards, less expected forfeitures, is amortized over the awards' service periods on a straight-line basis.

*Stock Options*

The exercise price of each stock option equals the market price of Applied common stock on the date of grant. Most options are scheduled to vest over four years and expire no later than seven years from the grant date. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model. This model was developed for use in estimating the value of publicly traded options that have no vesting restrictions and are fully transferable. Applied's employee stock options have characteristics significantly different from those of publicly traded options. The weighted average assumptions used in the model are outlined in the following table:

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
<i>Stock Options:</i>				
Dividend yield	1.23%	—	0.70%	1.12%
Expected volatility	36%	—	37%	31%
Risk-free interest rate	5.0%	—	4.5%	4.7%
Expected life (in years)	3.8	—	3.8	3.9

The computation of the expected volatility assumption used in the Black-Scholes calculations for new grants is based on a combination of historical and implied volatilities. When establishing the expected life assumption, Applied annually reviews historical employee exercise behavior with respect to option grants with similar vesting periods. There were no stock options granted in the three months ended July 29, 2007. The weighted average grant date fair value of options granted during the three months ended July 30, 2006 was \$5.07, and during the nine months ended July 30, 2006 and July 29, 2007 was \$5.94 and \$5.11, respectively.

*Employee Stock Purchase Plans*

Under the ESPP, substantially all employees may purchase Applied common stock through payroll deductions at a price equal to 85 percent of the lower of the fair market value of Applied stock at the beginning of the applicable offering period or at the end of each applicable purchase period. There were no ESPP shares issued during the third quarter of fiscal 2007. Based on the Black-Scholes option pricing model, the weighted average estimated fair value of purchase rights under the ESPP was \$5.34 and \$4.80 for the nine months ended July 30, 2006 and July 29, 2007, respectively. Compensation expense is calculated using the fair value of the employees' purchase rights under the Black-Scholes model. Underlying assumptions used in the model are outlined in the following table:

	Nine Months Ended	
	July 30, 2006	July 29, 2007
<i>ESPP:</i>		
Dividend yield	0.04%	1.19%
Expected volatility	31.9%	28.5%
Risk-free interest rate	3.19%	4.94%
Expected life (in years)	1.25	1.25

*Restricted Stock Units and Restricted Stock*

Restricted stock units are converted into shares of Applied common stock upon vesting on a one-for-one basis. Restricted stock units vest over a minimum of three years and typically vest over three to four years. Vesting of



## APPLIED MATERIALS, INC.

## NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

restricted stock units usually is subject to the employee's continued service with Applied. The compensation expense related to these awards is determined using the fair value of Applied common stock on the date of the grant.

On January 25, 2007, the Human Resources and Compensation Committee (the Committee) of the Board of Directors approved new awards of 1,950,000 performance-based restricted stock units for Applied's named executive officers and other key employees. The Committee also approved the issuance of 150,000 shares of restricted stock to Applied's President and Chief Executive Officer at \$0.01 per share. These awards will vest only if specific performance goals set by the Committee are achieved. The goals require the achievement of specified levels of Applied's annual operating profit and also that the officer remain an employee of Applied through the vesting date. The fair value of the performance-based restricted stock awards and restricted stock was estimated using the fair value of Applied common stock on the date of the grant and assumes that performance goals will be achieved. If such goals are not met, no compensation cost will be recognized and any recognized compensation cost will be reversed. The expected cost of the grant is being reflected over the service period, and is reduced for estimated forfeitures.

**Note 2 Earnings Per Share**

Basic earnings per share is determined using the weighted average number of common shares outstanding during the period. Diluted earnings per share is determined using the weighted average number of common shares and potential common shares (representing the dilutive effect of stock options, restricted stock units, ESPP shares and amounts due under the agreements associated with the accelerated stock buyback program) outstanding during the period. Applied's net income has not been adjusted for any period presented for purposes of computing basic or diluted earnings per share.

For purposes of computing diluted earnings per share, weighted average potential common shares do not include stock options with an exercise price greater than the average fair market value of Applied common stock for the period, as the effect would be anti-dilutive. Accordingly, options to purchase 133,936,000 and 57,049,000 shares of common stock for the three months ended July 30, 2006 and July 29, 2007, respectively, and options to purchase 132,287,000 and 74,196,000 shares of common stock for the nine months ended July 30, 2006 and July 29, 2007, respectively, were excluded from the computation.

**Note 3 Accounts Receivable, Net**

Applied has agreements with various financial institutions to sell accounts receivable from selected customers. Applied also discounts letters of credit through various financial institutions. Under these agreements, Applied sold accounts receivable and discounted letters of credit in the amounts of \$49 million and \$116 million for the three months ended July 30, 2006 and July 29, 2007, respectively, and \$140 million and \$392 million for the nine months ended July 30, 2006 and July 29, 2007, respectively. Financing charges on the sale of receivables and discounting of letters of credit are included in interest expense in the accompanying Consolidated Condensed Statements of Operations and were not material for all periods presented. As of July 29, 2007, \$4 million of sold accounts receivable remained outstanding under these agreements. A portion of these sold accounts receivable is subject to certain recourse provisions. As of July 29, 2007, Applied has not experienced any losses under these recourse provisions.

APPLIED MATERIALS, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

**Note 4 Inventories**

Inventories are stated at the lower of cost or market, with cost determined on a first-in, first-out (FIFO) basis. Components of inventories were as follows:

	October 29, 2006	July 29, 2007
	(In thousands)	
Customer service spares	\$ 466,414	\$ 518,063
Raw materials	236,913	205,966
Work-in-process	272,654	226,505
Finished goods	430,796	411,341
	<u>\$ 1,406,777</u>	<u>\$ 1,361,875</u>

Included in finished goods inventory is \$174 million at both October 29, 2006 and July 29, 2007 of newly-introduced systems at customer locations where the sales transaction did not meet Applied's revenue recognition criteria, as set forth in Note 1 of Notes to the Consolidated Financial Statements in the 2006 Form 10-K.

**Note 5 Goodwill, Purchased Technology and Other Intangible Assets**

Details of unamortized intangible assets were as follows:

	October 29, 2006			July 29, 2007		
	Goodwill	Other Intangible Assets	Total	Goodwill	Other Intangible Assets	Total
	(In thousands)					
Gross carrying amount	\$ 618,428	\$ 17,860	\$ 636,288	\$ 698,770	\$ 17,860	\$ 716,630
Accumulated amortization	(45,870)	—	(45,870)	(45,870)	—	(45,870)
	<u>\$ 572,558</u>	<u>\$ 17,860</u>	<u>\$ 590,418</u>	<u>\$ 652,900</u>	<u>\$ 17,860</u>	<u>\$ 670,760</u>

Goodwill and unamortized intangible assets are not amortized but are subject to annual reviews for impairment, which Applied performs during the fourth quarter of each fiscal year. Applied conducted these impairment tests in the fourth quarter of fiscal 2006, and the results of these tests indicated that Applied's goodwill and unamortized intangible assets were not impaired. Goodwill and unamortized intangible assets are also subject to review for impairment when circumstances or events occur during the year that indicate that the assets may be impaired. From October 29, 2006 to July 29, 2007, the change in goodwill was \$80 million, primarily due to the acquisition of certain net assets of Brooks Automation, Inc. consisting of its software division (Brooks Software), which was completed in the second quarter of fiscal 2007. Other intangible assets that are not subject to amortization consist primarily of a trade name. As of July 29, 2007, goodwill and unamortized intangible assets by reportable segment was: Silicon, \$224 million; Fab Solutions, \$193 million; Display, \$116 million; and Adjacent Technologies, \$138 million. For additional details, see Note 12.

Details of amortized intangible assets were as follows:

	October 29, 2006			July 29, 2007		
	Purchased Technology	Other Intangible Assets	Total	Purchased Technology	Other Intangible Assets	Total
	(In thousands)					
Gross carrying amount	\$ 469,226	\$ 75,617	\$ 544,843	\$ 489,847	\$ 102,517	\$ 592,364
Accumulated amortization	(327,335)	(34,302)	(361,637)	(349,664)	(38,583)	(388,247)
	<u>\$ 141,891</u>	<u>\$ 41,315</u>	<u>\$ 183,206</u>	<u>\$ 140,183</u>	<u>\$ 63,934</u>	<u>\$ 204,117</u>

APPLIED MATERIALS, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

Purchased technology and other intangible assets are amortized over their estimated useful lives of 1 to 15 years using the straight-line method. From October 29, 2006 to July 29, 2007, the change in gross carrying amount of the amortized intangible assets was \$48 million, primarily due to the acquisition of Brooks Software (see Note 12). Aggregate amortization expense was \$6 million and \$10 million for the three months ended July 30, 2006 and July 29, 2007, and \$20 million and \$28 million for the nine months ended July 30, 2006, and July 29, 2007, respectively. As of July 29, 2007, future estimated amortization expense is expected to be \$9 million for the remainder of fiscal 2007, \$37 million for fiscal 2008, \$34 million for fiscal 2009, \$30 million for fiscal 2010, \$27 million for fiscal 2011, and \$67 million thereafter. As of July 29, 2007, amortized intangible assets by reportable segment were: Silicon, \$18 million; Fab Solutions, \$61 million; Display, \$52 million; and Adjacent Technologies, \$73 million.

**Note 6 Accounts Payable, Accrued Expenses, Guarantees and Contingencies**

*Accounts Payable and Accrued Expenses*

Components of accounts payable and accrued expenses were as follows:

	October 29, 2006	July 29, 2007
	(In thousands)	
Accounts payable	\$ 475,479	\$ 479,467
Deferred revenue	369,875	468,634
Compensation and employee benefits	439,333	444,790
Installation and warranty	215,578	191,567
Customer deposits	97,495	145,689
Other accrued taxes	84,957	108,323
Dividends payable	69,600	82,686
Restructuring reserve	24,731	30,802
Other	246,603	251,265
	<u>\$ 2,023,651</u>	<u>\$ 2,203,223</u>

Changes in the warranty reserves during the three and nine months ended July 30, 2006 and July 29, 2007 were as follows:

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In thousands)			
Beginning balance	\$ 150,461	\$ 181,173	\$ 136,613	\$ 174,605
Provisions for warranty	54,831	48,502	162,548	141,619
Consumption of reserves	(40,041)	(41,754)	(133,910)	(128,303)
Ending balance	<u>\$ 165,251</u>	<u>\$ 187,921</u>	<u>\$ 165,251</u>	<u>\$ 187,921</u>

Applied products are generally sold with a 12-month warranty period following installation. The provision for the estimated cost of warranty is recorded when revenue is recognized. Parts and labor are covered under the terms of the warranty agreement. The warranty provision is based on historical experience by product, configuration and geographic region. Quarterly warranty consumption is generally associated with sales that occurred during the preceding four quarters, and quarterly warranty provisions are generally related to the current quarter's sales.

## APPLIED MATERIALS, INC.

## NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

**Guarantees**

During the ordinary course of business, Applied provides standby letters of credit or other guarantee instruments to certain parties as required for certain transactions initiated by either Applied or its subsidiaries. As of July 29, 2007, the maximum potential amount of future payments that Applied could be required to make under these guarantee arrangements was \$136 million. Applied has not recorded any liability in connection with these guarantee arrangements beyond that required to appropriately account for the underlying transaction being guaranteed. Applied does not believe, based on historical experience and information currently available, that it is probable that any amounts will be required to be paid under these guarantee arrangements.

Applied also has agreements with various global banks to facilitate subsidiary banking operations world-wide, including overdraft arrangements, bank guarantees and letters of credit. As of July 29, 2007, Applied Materials, Inc. has provided parent guarantees to banks for approximately \$85 million to cover these arrangements.

**Legal matters***David Scharf*

On July 31, 2001, David Scharf, an individual, filed a lawsuit against Applied in the United States District Court for the Central District of California, captioned David Scharf v. Applied Materials, Inc. The lawsuit alleges that Applied has infringed, has induced others to infringe, and has contributed to others' infringement of, a patent concerning color synthesizing scanning electron microscope technology. Mr. Scharf seeks preliminary and permanent injunctions, a finding of willful infringement, damages (including treble damages), and costs. Applied has answered the complaint and counterclaimed for declaratory judgment of non-infringement and invalidity. On May 10, 2002, Mr. Scharf filed a request for re-examination of his patent with the Patent and Trademark Office (PTO). On June 26, 2002, the case was removed from the Court's active docket after the parties stipulated to stay the case pending the results of that re-examination. On July 11, 2002, Applied filed its own request for re-examination of Mr. Scharf's patent with the PTO. Applied's request for re-examination was granted on September 19, 2002. On April 23, 2004, the PTO notified Applied that it intended to issue a re-examination certificate. On June 14, 2004, Applied filed a second request for re-examination of Mr. Scharf's patent with the PTO. The second request was denied on September 1, 2004. On October 1, 2004, Applied filed a petition for reconsideration of that denial, which subsequently was denied. The lawsuit was returned to the active docket of the District Court for the Central District of California in January 2006. The parties have completed fact discovery, and on February 22, 2007, the Court held a claim construction hearing. The Court heard oral arguments regarding the parties' motions for summary judgment on August 13, 2007, and denied both parties' motions for summary judgment on August 20, 2007. The Court has not scheduled a trial date. Applied believes it has meritorious defenses and counterclaims and intends to pursue them vigorously.

*Linear Technology*

On March 12, 2002, Linear Technology Corp. (LTC) filed a complaint against Applied in the Superior Court for the County of Santa Clara, captioned Linear Technology Corp. v. Applied Materials, Inc., Novellus Systems, Inc. and Tokyo Electron Ltd., alleging claims for breach of contract, fraud and deceit, negligent misrepresentation, suppression of fact, unfair competition, breach of warranty, express contractual indemnity, implied equitable indemnity and declaratory relief. The complaint alleged, among other things, that Applied is obligated to indemnify and defend LTC for certain claims in an underlying patent infringement lawsuit brought by Texas Instruments, Inc. (TI) against LTC. On November 12, 2002, LTC filed an amended complaint asserting essentially the same claims as in the original complaint, but adding an additional assertion that LTC and TI have settled their litigation. Applied's motion to dismiss the amended complaint was granted in part. LTC filed Second and Third Amended Complaints, each of which was dismissed upon Applied's motion. On February 13, 2004, LTC filed a Fourth Amended Complaint, which Applied moved to dismiss. LTC then filed a motion to amend its Fourth Amended Complaint, which the Court granted. On July 7, 2004, LTC filed a Fifth Amended Complaint. On October 5, 2004, Applied's

## APPLIED MATERIALS, INC.

## NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

motion to dismiss LTC's Fifth Amended Complaint was granted with prejudice. On January 11, 2005, LTC filed a notice of appeal of the dismissal of its complaint, and oral argument of the LTC appeal was heard by the California Sixth District Court of Appeal on April 19, 2007. On June 19, 2007, the Sixth District Court of Appeals entered an order that upheld the trial court's dismissal of LTC's claims for fraud and deceit, but reversed the trial court's dismissal of LTC's remaining claims and remanded the case to the trial court for further proceedings. On July 30, 2007, Applied filed notice that it will seek review by the California Supreme Court of the reversal and remand order of the Sixth District Court of Appeal. Applied believes it has meritorious defenses and intends to pursue them vigorously.

*Jusung*

On December 24, 2003, Applied filed a lawsuit against Jusung Engineering Co., Ltd. (Jusung Engineering) and Jusung Pacific Co., Ltd. (Jusung Pacific, referred to together with Jusung Engineering as Jusung) in Tao-Yuan District Court in Taiwan, captioned Applied Materials, Inc. v. Jusung Engineering Co., Ltd. The lawsuit alleges that Jusung is infringing a patent related to chemical vapor deposition owned by Applied (the CVD patent). In the lawsuit, Applied seeks a provisional injunction prohibiting Jusung from importing, using, manufacturing, servicing or selling in Taiwan certain liquid crystal display (LCD) manufacturing equipment. On December 25, 2003, the Tao-Yuan District Court ruled in favor of Applied's request for a provisional injunction, and on January 14, 2004, the Court issued a provisional injunction order against Jusung Pacific. Jusung Pacific appealed those decisions, and the decisions were affirmed on appeal. On January 30, 2004, Jusung Pacific requested permission to post a counterbond to have the Jusung Pacific injunction lifted. Jusung Pacific's counterbond request was granted, and on March 30, 2004, the provisional injunction order was lifted. At Applied's request, on December 11, 2004, the District Court issued a provisional injunction order against Jusung Engineering. Jusung Engineering appealed that order, and the order was affirmed on appeal. Jusung Engineering also requested permission to post a counterbond to have the Jusung Engineering injunction lifted. Jusung Engineering's counterbond request was granted, and on April 25, 2005, the provisional injunction order against Jusung Engineering was lifted. Applied has appealed both counterbond decisions. On June 30, 2004, Applied filed a "main action" patent infringement complaint against Jusung in the Hsinchu District Court in Taiwan, captioned Applied Materials, Inc. v. Jusung Engineering Co., Ltd. In the lawsuit, Applied seeks damages and a permanent injunction for infringement of the CVD patent. The decisions regarding the provisional injunction and counterbond have no effect on the separate patent infringement lawsuit filed by Applied against Jusung in the Hsinchu Court. In August 2006, the Court set the litigation fee and the litigation security payment, and the main action is now proceeding on its merits. Applied's CVD patent also is the subject of an invalidity proceeding filed in the Taiwanese Intellectual Property Office ("TIPO") by Jusung Pacific in June 2004. On July 12, 2007, Applied received a decision from the TIPO allowing Applied's recent amendments and dismissing Jusung's invalidation action. Jusung has filed an appeal of the TIPO's decision.

On June 13, 2006, Applied filed an action in the Taiwanese Patent and Trademark Office challenging the validity of a patent owned by Jusung Engineering related to severability of the transfer chamber for a cluster system. On June 20, 2006, Jusung Engineering filed a lawsuit in Hsinchu District Court in Taiwan, captioned Jusung Engineering, Co. Ltd. v. AKT America, Inc. and Applied Materials, Inc., alleging infringement of this patent. Jusung Engineering's lawsuit seeks damages, costs and attorneys' fees, but does not seek injunctive relief. Applied believes that it has meritorious defenses that it intends to pursue vigorously.

On January 31, 2007, Applied received notice that Jusung filed a complaint of private prosecution in the Taipei District Court of Taiwan dated November 10, 2006, entitled Jusung Engineering Co., Ltd. v. M. Splinter, Y. Lin, C. Lai and J. Lin. The complaint alleges that Applied's outside counsel received from the Court and used a copy of an expert report that Jusung had filed in the ongoing patent infringement lawsuits and that Jusung had intended to remain confidential. Jusung named as defendants Applied's Taiwan attorneys, as well as Michael R. Splinter, Applied's President and Chief Executive Officer, as the statutory representative of Applied. On April 27, 2007 the Taipei District Court dismissed Jusung's private prosecution complaint. Jusung filed an appeal of the dismissal to

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the High Court. The High Court affirmed the District Court's rejection of the private prosecution complaint on June 25, 2007.

On April 3, 2007, Jusung filed a complaint against Applied's subsidiary, AKT America, Inc. (AKT America), and one of its suppliers, in Seoul Central District Court in Seoul, Korea, captioned Jusung Engineering, Co. Ltd. v. AKT America, Inc. The complaint alleges infringement of a Jusung patent involving the showerhead assembly of PECVD equipment for LCDs and seeks injunctive relief. On June 9, 2007, AKT America and its supplier filed an invalidation action with the Korean Intellectual Property Office ("KIPO") against the patent asserted by Jusung. Applied believes that it has meritorious defenses that it intends to pursue vigorously.

On August 13, 2007, Applied filed a complaint against Jusung in the Seoul Central District Court in Seoul, Korea, captioned Applied Materials, Inc. v. Jusung Engineering Ltd. The complaint alleges infringement of an Applied patent involving a substrate support or housing for a substrate supporting pin used in PECVD equipment for LCDs and seeks both monetary damages and injunctive relief. Applied also initiated a confirmation of scope action with the Intellectual Property Tribunal of the KIPO based on the same patent.

*Taiwan Fair Trade Commission*

On April 10, 2004, the Taiwan Fair Trade Commission (TFTC) notified AKT America that, following a complaint filed by Jusung, the TFTC had begun an investigation into whether AKT America had violated the Taiwan Fair Trade Act. The investigation focused on whether AKT America violated the Taiwan Guidelines for the Review of Cases Involving Enterprises Issuing Warning Letters for Infringement on Copyright, Trademark and Patent Rights by allegedly notifying customers about its patent rights and the infringement of those rights by Jusung. On June 15, 2004, the TFTC notified Applied that Applied also was a subject of the investigation. The TFTC subsequently notified Applied and AKT America that there was insufficient evidence to support a claim against either company. Jusung appealed the TFTC's decision, and the appeals court affirmed the decision of the TFTC. Jusung appealed the appeals court's affirmation of the decision of the TFTC, and in January 2007, the Taipei High Administrative Court dismissed Jusung's appeal. In February 2007, Jusung appealed the dismissal to the Supreme Administrative Court of Taiwan. Applied believes that Jusung's complaint is without merit.

*Silicon Services Consortium*

On January 19, 2006, five companies that sell refurbished Applied tools (Silicon Services Consortium Inc., Semiconductor Support Services Co., OEM Surplus, Inc., Precision Technician Inc., and Semiconductor Equipment Specialist, Inc.) filed a lawsuit against Applied in the United States District Court for the Western District of Texas, captioned Silicon Services Consortium, Inc., et al. v. Applied Materials, Inc. The plaintiffs claim that a policy that Applied announced in January 2005 limiting the sale of certain parts to them constituted an unlawful attempt to monopolize the refurbishment business, an interference with existing contracts, and an interference with prospective business relationships. The suit seeks injunctive relief, damages, costs and attorneys' fees. After Applied filed a motion to dismiss the original complaint, the plaintiffs filed an amended complaint alleging similar conduct. Applied filed a motion to dismiss the amended complaint on April 7, 2006, which the Court denied on February 16, 2007. Applied believes it has meritorious defenses and intends to pursue them vigorously. On January 17, 2007, Applied filed a counterclaim in this matter, asserting claims for patent infringement, trademark infringement, trademark dilution, unfair competition, and misuse and misappropriation of trade secrets against each of the five plaintiffs/counterdefendants. Applied seeks damages for the harm it has suffered, as well as an injunction prohibiting any further violation of Applied's intellectual property rights. Applied believes that it has meritorious claims and intends to pursue them vigorously. The Court has set a date for a Markman hearing in October 2007 and has scheduled trial to commence on November 3, 2008.

Applied does not believe that the outcome of any of the above matters will have a material adverse effect on its financial position or results of operations.

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Applied is subject to various legal proceedings and claims, either asserted or unasserted, that arise in the ordinary course of business. Applied from time to time is, and in the future may be, involved in legal proceedings or claims regarding patent infringement, intellectual property rights, antitrust, environmental regulations, securities, contracts, product performance, product liability, unfair competition, employment and other matters. In addition, Applied on occasion receives notification from customers who believe that Applied owes them indemnification or other obligations related to infringement claims made against the customers by third parties. Applied evaluates, among other factors, the degree of probability of an unfavorable outcome and reasonably estimates the amount of the loss. Significant judgment is required both in the determination of probability and as to whether an exposure can be reasonably estimated. When Applied determines that a loss is probable and the amount of the loss is reasonably estimable, the effect is recorded in the consolidated financial statements. Significant changes in legal proceedings and claims, or the factors considered in the evaluation of those matters, could have a material adverse effect on Applied's business, financial condition and results of operations.

**Note 7 Restructuring and Asset Impairments**

On February 9, 2007, the Board of Directors of Applied approved a plan (the Plan) to cease future development of beamline implant products for semiconductor manufacturing and close the operations of the Applied Implant Technologies (Implant) group based in Horsham, England. Under the Plan, Applied expects its research and development and manufacturing operations in Horsham to close by the end of December 2007. The total cost of implementing the Plan is expected to be in the range of \$95 million to \$110 million, and is reported in the Consolidated Condensed Statements of Operations under cost of products sold and operating expenses (including restructuring and asset impairment charges). The majority of the cash outlays in connection with the Plan are anticipated to occur in fiscal 2007. The Implant group operates in the Silicon segment and the results of its operations are not material to the segment's financial position or results of operations.

Costs under the Plan during the first nine months of fiscal 2007 consisted primarily of inventory-related charges reported as cost of products sold of \$53 million, other operating expenses of \$3 million, and restructuring and asset impairment charges of \$27 million. During the first nine months of fiscal 2007, Applied recorded restructuring charges of \$19 million, consisting primarily of employee termination costs to reduce its workforce by approximately 200 positions. The majority of the affected employees are based in Horsham, England, and represent multiple functions. Asset impairment charges included \$8 million of fixed asset write-offs.

Changes in restructuring reserves related the Plan for the nine months ended July 29, 2007 were as follows:

	<u>Severance</u>	<u>Facilities</u> <u>(In thousands)</u>	<u>Total</u>
Provision for restructuring reserves	\$ 16,685	\$ 74	\$ 16,759
Consumption of reserves	—	(47)	(47)
Foreign currency changes	340	2	342
Balance, April 29, 2007	<u>17,025</u>	<u>29</u>	<u>17,054</u>
Provision for restructuring reserves	1,565	139	1,704
Consumption of reserves	(5,764)	(112)	(5,876)
Foreign currency changes	300	—	300
Balance, July 29, 2007	<u>\$ 13,126</u>	<u>\$ 56</u>	<u>\$ 13,182</u>

During the first quarter of fiscal 2006, Applied's Board of Directors approved a plan to disinvest a portion of Applied's real estate and facilities portfolio (the Disinvestment Plan). Properties with an estimated fair value of \$56 million were reported as assets held-for-sale and reclassified from property, plant and equipment on the Consolidated Condensed Balance Sheet. Applied recorded an asset impairment charge of \$124 million during the first quarter of fiscal 2006 to write-down the following properties to estimated fair value: facilities in Narita, Japan;

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Chunan, Korea; Hillsboro, Oregon; and Danvers, Massachusetts; and 26 acres of unimproved land in Hillsboro, Oregon. During fiscal 2006, Applied sold the Danvers, Massachusetts facility for net proceeds of \$16 million and recognized a gain of \$4 million; recorded additional impairment charges on the Narita and Chunan facilities of \$6 million; and recorded a restructuring charge of \$4 million related to environmental contamination of the Narita site. During the first quarter of fiscal 2007, Applied sold the Hillsboro, Oregon facility for net proceeds of \$9 million and recognized a gain of \$3 million. During the second quarter of fiscal 2007, Applied sold the Chunan facility for net proceeds of \$8 million and recognized a slight gain. During the third quarter of fiscal 2007, Applied sold the 26 acres of unimproved land in Hillsboro for net proceeds of \$6 million and recognized an insignificant gain. Subsequent to the third quarter of fiscal 2007, Applied entered into an agreement to sell the Narita facility for net proceeds of \$14 million. The sale is expected to close in the fourth quarter of fiscal 2007.

As part of the Disinvestment Plan, Applied also recorded a charge in the amount of \$91 million for future lease obligations that were scheduled to continue through fiscal 2014 related to the closure of its leased Hayward, California facility. During fiscal 2006, Applied consumed \$9 million in restructuring reserves for rental and operating costs associated with this facility. In the fourth quarter of fiscal 2006, Applied paid \$81 million to terminate the Hayward lease.

For the nine months ended July 29, 2007, changes in restructuring reserves for facilities realignment programs initiated in 2003 and 2004 were as follows:

	<u>(In thousands)</u>
Balance, October 29, 2006	\$ 24,731
Consumption of reserves	(3,032)
Balance, January 28, 2007	<u>21,699</u>
Consumption of reserves	(1,849)
Adjustments to reserves	(227)
Foreign currency changes	(59)
Balance, April 29, 2007	<u>19,564</u>
Consumption of reserves	(1,916)
Foreign currency changes	(28)
Balance, July 29, 2007	<u>\$ 17,620</u>

**Note 8 Derivative Financial Instruments**

Applied's derivative financial instruments, consisting of currency forward exchange and option contracts, are recorded at fair value on the Consolidated Condensed Balance Sheet, either in other current assets or accounts payable and accrued expenses. Changes in the fair value of derivatives that do not qualify for hedge accounting treatment, as well as the ineffective portion of any hedges, are recognized in the consolidated results of operations. The effective portion of the gain/(loss) is reported as a component of accumulated other comprehensive income in stockholders' equity, and is reclassified into results of operations when the hedged transaction affects income/(loss). All amounts included in accumulated other comprehensive income as of July 29, 2007 will generally be reclassified into earnings within 12 months. Changes in the fair value of currency forward exchange and option contracts due to changes in time value are excluded from the assessment of effectiveness, and are recognized in cost of products sold or expensed. The change in option and forward time value was not material for all periods presented. If the transaction being hedged fails to occur, or if a portion of any derivative is deemed to be ineffective, Applied promptly recognizes the gain/(loss) on the associated financial instrument in general and administrative expenses. The amounts recognized due to the anticipated transactions failing to occur or ineffective hedges were not material for all periods presented.



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Accumulated other comprehensive income related to derivative activities remained unchanged for the three months ended July 29, 2007, and decreased by \$3 million for the nine months ended July 29, 2007 due to a net decrease in the intrinsic value of derivatives.

**Note 9 Stockholders' Equity**

**Comprehensive Income**

Components of comprehensive income, on an after-tax basis where applicable, were as follows:

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In thousands)			
Net income	\$ 512,040	\$ 473,515	\$ 1,067,634	\$ 1,288,435
Change in unrealized net gain/(loss) on investments	10,168	21,110	(169)	23,340
Change in unrealized net gain/(loss) on derivative instruments qualifying as cash flow hedges	2,734	(330)	(5,220)	(2,718)
Foreign currency translation adjustments	10,246	2,453	8,176	10,147
Change in minimum pension liability	—	—	(7,069)	—
Comprehensive income	\$ 535,188	\$ 496,748	\$ 1,063,352	\$ 1,319,204

Components of accumulated other comprehensive income (loss), on an after-tax basis where applicable, were as follows:

	October 29, 2006	July 29, 2007
	(In thousands)	
Unrealized gain/(loss) on investments	\$ (5,132)	\$ 18,208
Unrealized gain on derivative instruments qualifying as cash flow hedges	4,319	1,601
Minimum pension liability	(17,985)	(17,985)
Cumulative translation adjustments	(212)	9,935
	\$ (19,010)	\$ 11,759

**Stock Repurchase Program**

Since March 1996, Applied has systematically repurchased shares of its common stock in the open market. In March 2006, the Board of Directors approved a stock repurchase program for up to \$5.0 billion in repurchases over the next three years ending in March 2009. Pursuant to this authorization, on September 18, 2006, Applied entered into accelerated stock buyback agreements with Goldman, Sachs & Co. (Goldman Sachs), under which Applied agreed to purchase from Goldman Sachs outstanding shares of Applied common stock for an initial purchase price of \$2.5 billion. Under the agreements, Applied purchased 145 million shares of Applied common stock on September 18, 2006 at a price per share of \$17.20, and Goldman Sachs agreed to purchase an equivalent number of shares in the open market over the following four months. At the end of the four month period, Applied was entitled to or subject to a price adjustment based upon the volume weighted average price of Applied common stock during the purchase period that could be settled, at Applied's option, in cash or shares of its common stock. On January 24, 2007, Applied settled the price adjustment of \$132 million by payment in cash to Goldman Sachs, resulting in an adjusted price per share of \$18.08. The repurchase was funded with Applied's existing cash and investments and reported as treasury stock.

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On September 15, 2006, the Board of Directors approved a new stock repurchase program for up to \$5.0 billion in repurchases over the next three years ending in September 2009, of which authorization for \$4.2 billion of repurchases remained as of July 29, 2007. Under this authorization, Applied is continuing a systematic stock repurchase program and also may make supplemental stock repurchases from time to time, depending on market conditions, stock price and other factors.

During the three months ended July 30, 2006 and July 29, 2007, respectively, Applied repurchased 30,658,000 shares of its common stock at an average price of \$16.30 for a total cash outlay of \$500 million, and 20,085,000 shares of its common stock at an average price of \$19.91 for a total cash outlay of \$400 million. During the nine months ended July 30, 2006 and July 29, 2007, respectively, Applied repurchased 84,722,000 shares of its common stock at an average price of \$17.70 for a total cash outlay of \$1.5 billion, and 41,464,000 shares of its common stock at an average price of \$19.29 for a total cash outlay of \$800 million. There were no common stock repurchases made during the first quarter of fiscal 2007.

**Dividends**

On June 19, 2007, Applied's Board of Directors declared a quarterly cash dividend in the amount of \$0.06 per share, payable on September 6, 2007 to stockholders of record as of August 16, 2007, for a total of \$83 million. On March 14, 2007, Applied's Board of Directors declared a quarterly cash dividend in the amount of \$0.06 per share, which was paid on June 7, 2007 to stockholders of record as of May 17, 2007, for a total of \$83 million. The declaration of any future cash dividend is at the discretion of the Board of Directors and will depend on Applied's financial condition, results of operations, capital requirements, business conditions and other factors.

**Note 10 Employee Benefit Plans**

Applied sponsors a number of employee benefit plans, including defined benefit plans of certain foreign subsidiaries. The components of the net periodic pension costs of these defined benefit plans for the three and nine months ended July 30, 2006 and July 29, 2007 were as follows:

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In thousands)		(In thousands)	
Service cost	\$ 3,599	\$ 3,947	\$ 10,797	\$ 11,649
Interest cost	2,045	2,627	6,135	7,831
Expected return on plan assets	(1,058)	(1,425)	(3,174)	(4,275)
Amortization of transition obligation	16	16	48	48
Amortization of prior service costs	34	(30)	102	(90)
Amortization of net loss	620	503	1,860	1,509
Net periodic pension cost	\$ 5,256	\$ 5,638	\$ 15,768	\$ 16,672

On February 9, 2007, the Board of Directors of Applied approved a plan to cease development of beamline implant products for semiconductor manufacturing and close the operations of its Implant group based in Horsham, England (see Note 7). A reduction in force led to a curtailment of Applied Materials U.K. Ltd.'s defined benefit pension plan and resulted in a curtailment loss of \$627,000, which is included in restructuring and asset impairment expenses on the Consolidated Condensed Statement of Operations.

**Note 11 Borrowing Facilities**

Applied has credit facilities for unsecured borrowings in various currencies of up to approximately \$1.2 billion, of which \$1 billion is comprised of a 5-year revolving credit agreement with a group of banks that is scheduled to

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expire in January 2012. This agreement provides for borrowings at interest rates keyed to one of the two rates selected by Applied for each advance, and includes financial and other covenants with which Applied was in compliance at July 29, 2007. No amounts were outstanding under this agreement at July 29, 2007. The remaining credit facilities of approximately \$158 million are with Japanese banks at rates indexed to their prime reference rate and are denominated in Japanese yen. No amounts were outstanding under these Japanese credit facilities at July 29, 2007.

**Note 12 Business Combinations and Equity-Method Investment**

On March 30, 2007, Applied purchased Brooks Software for \$137 million in cash. The acquired business is a leading provider of factory management and control software to the semiconductor and LCD industries. Its products complement Applied's existing software applications and are expected to enable Applied to offer customers a comprehensive computer integrated manufacturing (CIM) solution for optimizing fab operations. The acquired business and its employees are being integrated within the Applied Global Services organization, which is reported under the Fab Solutions segment. Applied recorded an in-process research and development (IPR&D) expense of \$5 million, reported as research, development and engineering expense, goodwill of \$80 million, and other intangible assets of \$47 million. The acquired IPR&D expense was determined by identifying research projects for which technological feasibility had not been established and no alternative future use existed. The value of the projects identified as in-process was determined by estimating the future cash flows from the projects once commercially feasible, discounting the net cash flows back to their present value at a rate commensurate with the level of risk and maturity of the projects, and then applying a percentage of completion to the calculated value.

On August 14, 2006, Applied's wholly-owned subsidiary, Metron Technology, Inc. (Metron), purchased certain assets of UMS Solutions Pte. Ltd.'s parts cleaning and recycling business in Singapore for \$10 million. The acquisition enhanced Metron's capabilities in Southeast Asia with advanced, high-quality parts cleaning services to support its customers' semiconductor manufacturing requirements. In connection with this acquisition, Applied recorded goodwill of \$7 million and other intangible assets of \$1 million.

On July 20, 2006, Applied and Dainippon Screen Mfg. Co., Ltd. (Screen) completed the formation of Sokudo Co., Ltd., a Japanese joint venture company (Sokudo), to deliver advanced track solutions for customers' critical semiconductor manufacturing requirements. Screen owns 52 percent and holds the controlling interest in Sokudo, and Applied owns 48 percent. Screen transferred into Sokudo its existing track business and related intellectual property, including employees, products and its installed base of systems. Applied paid \$147 million for its investment in Sokudo. Additionally, Applied contributed to Sokudo certain technology and related intellectual property and provided key development employees. Screen performs manufacturing for Sokudo under an outsourcing agreement. Applied accounts for its interest in Sokudo under the equity method of accounting. Under this accounting method, Applied's exposure to loss from ongoing operations is limited to \$127 million as of July 29, 2007, which represents Applied's carrying value of its investment in Sokudo. Applied's investment in Sokudo is classified as an equity-method investment on the Consolidated Condensed Balance Sheet, and includes the unamortized excess of Applied's investment over its equity in the joint venture's net assets in the amount of \$41 million, which is being amortized on a straight-line basis over its estimated economic useful life of 7 years.

On July 7, 2006, Applied completed its acquisition of Applied Films Corporation, a Colorado corporation (Applied Films) and leading supplier of thin film deposition equipment used in manufacturing LCD, solar cells, flexible electronics and energy-efficient glass. Applied paid \$28.50 per share in cash for each outstanding share of Applied Films. The total purchase price was approximately \$484 million, or \$328 million net of Applied Films' existing cash and marketable securities. As part of the acquisition, Applied assumed Applied Films' outstanding stock options and restricted stock awards that, at the acquisition date, had a total fair value of \$26 million, of which \$18 million was allocated to the purchase price and the remainder to unearned compensation. Upon the acquisition and subject to vesting, Applied Films stock options became exercisable for shares of Applied common stock and Applied Films restricted stock awards became payable in shares of Applied common stock totaling, in the

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aggregate, three million shares of Applied common stock. The fair value of the assumed Applied Films stock options was determined using a Black-Scholes model. The use of the Black-Scholes model and method of determining the variables is consistent with Applied's valuation of equity-based compensation. Applied recorded an IPR&D expense of \$14 million, reported as research, development and engineering expense; goodwill of \$226 million; and other intangible assets of \$140 million. The acquired IPR&D expense was determined by identifying research projects for which technological feasibility had not been established and no alternative future use existed. The value of the projects identified as in-process was determined by estimating the future cash flows from the projects once commercially feasible, discounting the net cash flows back to their present value at a rate commensurate with the level of risk and maturity of the projects, and then applying a percentage of completion to the calculated value.

On December 23, 2005, Applied acquired all of the outstanding shares of ChemTrace Corporation and ChemTrace Precision Cleaning, Inc. for approximately \$22 million in cash, net of cash acquired, of which \$18 million was paid upon closing. This business provides customers with precision parts cleaning and materials testing solutions. In connection with this acquisition, Applied recorded goodwill of \$12 million and other intangible assets of \$8 million.

For all of the purchase business combinations discussed above, the results of operations prior to the acquisition dates were not material in relation to those of Applied for any of the periods presented herein. Goodwill is not amortized but is reviewed periodically for impairment and purchased technology and other intangible assets are amortized over their useful life of 1 to 15 years.

**Note 13      Income Taxes**

Applied's effective income tax rate for the third quarter of fiscal 2007 was 31.1 percent. Applied's effective income tax rate was 29.1 percent for the comparable quarter of fiscal 2006 and included benefits of \$34 million due primarily to a favorable resolution of audits of prior years' income tax filings. Applied's future effective income tax rate depends on various factors, such as tax legislation, the geographic composition of Applied's pre-tax income, and the tax rate on equity compensation. Management carefully monitors these factors and timely adjusts the effective income tax rate accordingly.

**Note 14      Industry Segment Operations**

Applied's four reportable segments are: Silicon, Fab Solutions, Display, and Adjacent Technologies. Applied's chief operating decision-maker, the President and CEO, reviews operating results to make decisions about allocating resources and assessing performance for the entire Company. Segment information is presented based upon Applied's management organization structure as of July 29, 2007 and the distinctive nature of each segment. Prior periods have been reclassified to conform to the current presentation. Future changes to this internal financial structure may result in changes to the reportable segments disclosed. Prior to the fourth quarter of fiscal 2006, Applied operated in one reportable segment.

Each reportable segment is separately managed and has separate financial results that are reviewed by Applied's chief operating decision-maker. Each reportable segment contains closely related products that are unique to the particular segment. Segment operating income is determined based upon internal performance measures used by the President and CEO.

Applied derives the segment results from its internal management reporting system. The accounting policies Applied uses to derive reportable segment results are substantially the same as those used for external reporting purposes. Management measures the performance of each reportable segment based upon several metrics, including orders, net sales and operating income. Management uses these results to evaluate the performance of, and to assign resources to, each of the reportable segments. Applied does not allocate to its reportable segments certain operating expenses, which it manages separately at the corporate level. These unallocated costs include charges for equity-

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based compensation and certain components of variable compensation, corporate marketing and sales, corporate functions (certain management, finance, legal, human resources and RD&E), and unabsorbed information technology and occupancy. In addition, Applied does not allocate to its reportable segments restructuring and asset impairment charges and any associated adjustments related to restructuring actions. Segment operating income excludes interest income, interest expense and other financial charges and income taxes. Management does not consider the unallocated costs in measuring the performance of the reportable segments.

The Silicon segment is comprised of a wide range of semiconductor manufacturing equipment that customers use to perform most of the steps in the chip fabrication process, including atomic layer deposition, chemical vapor deposition, physical vapor deposition, electrochemical plating, etch, ion implantation, rapid thermal processing, chemical mechanical planarization, wafer wet cleaning, and wafer metrology and inspection.

The Fab Solutions segment is comprised of a broad range of products and services designed to improve the performance and productivity of semiconductor manufacturers' fab operations.

Applied reports under the Display segment the manufacture, sale and service of equipment used to fabricate and test LCDs for televisions, computer displays and other applications. With the acquisition of Applied Films, the Display segment was expanded to include equipment to manufacture color filters for LCDs.

Applied reports under the Adjacent Technologies segment the manufacture, sale and service of equipment used to fabricate solar photovoltaic cells, flexible electronics and energy-efficient glass.

Information for each reportable segment for the three months and nine months ended July 30, 2006 and July 29, 2007 is as follows:

	Three Months Ended		Nine Months Ended	
	Net Sales	Operating Income (Loss)	Net Sales	Operating Income (Loss)
	(In thousands)		(In thousands)	
<b>2006:</b>				
Silicon	\$ 1,642,682	\$ 586,300	\$ 4,358,889	\$ 1,429,271
Fab Solutions	602,400	184,437	1,619,521	454,386
Display	298,361	110,589	670,311	224,311
Adjacent Technologies	—	(8,500)	—	(8,500)
Total Segment	<u>\$ 2,543,443</u>	<u>\$ 872,826</u>	<u>\$ 6,648,721</u>	<u>\$ 2,099,468</u>
<b>2007:</b>				
Silicon	\$ 1,772,042	\$ 702,466	\$ 5,000,259	\$ 1,828,524
Fab Solutions	553,804	136,777	1,623,982	423,828
Display	206,442	52,085	640,236	159,028
Adjacent Technologies	28,696	(29,349)	103,335	(59,021)
Total Segment	<u>\$ 2,560,984</u>	<u>\$ 861,979</u>	<u>\$ 7,367,812</u>	<u>\$ 2,352,359</u>

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Reconciliations of segment operating results to Applied consolidated totals for the three and nine months ended July 30, 2006 and July 29, 2007 are as follows:

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In thousands)		(In thousands)	
Total segment operating income	\$ 872,826	\$ 861,979	\$ 2,099,468	\$ 2,352,359
Unallocated costs	(194,691)	(188,501)	(503,054)	(518,565)
Restructuring and asset impairment charges	2,646	(1,616)	(210,623)	(23,382)
Income from operations	<u>\$ 680,781</u>	<u>\$ 671,862</u>	<u>\$ 1,385,791</u>	<u>\$ 1,810,412</u>

**Note 15 Recent Accounting Pronouncements**

In February 2007, the Financial Accounting Standards Board (FASB) issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115" (SFAS No. 159), which permits entities to elect to measure many financial instruments and certain other items at fair value that are not currently required to be measured at fair value. This election is irrevocable. SFAS No. 159 will be effective for Applied in fiscal 2009. Applied is evaluating the potential impact of the implementation of SFAS No. 159 on its financial position and results of operations.

In September 2006, the FASB issued Statement No. 158, "Employer's Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106, and 132R" (SFAS 158). SFAS 158 requires an entity to recognize in its statement of financial condition the funded status of its defined benefit post-retirement plans, measured as the difference between the fair value of the plan assets and the benefit obligation. SFAS 158 also requires an entity to recognize changes in the funded status of a defined benefit post-retirement plan directly to accumulated other comprehensive income, net of tax, to the extent such changes are not recognized in earnings as components of periodic net benefit cost. SFAS 158 is effective for Applied in the fourth quarter of fiscal 2007. Applied does not expect the implementation of this standard to have a material effect on Applied's financial position or results of operations.

In September 2006, the FASB issued Statement No. 157, "Fair Value" (SFAS 157). SFAS 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS 157 becomes effective for Applied in fiscal 2009. Applied is evaluating the potential impact of the implementation of SFAS 157 on its financial position and results of operations.

In September 2006, the Securities and Exchange Commission issued Staff Accounting Bulletin No. 108, "Considering the Effects of Prior Year Misstatements When Quantifying Misstatements in Current Year Financial Statements" (SAB 108), which provides interpretive guidance on how the effects of the carryover or reversal of prior year misstatements should be considered in quantifying a current misstatement. SAB 108 is effective for Applied in the fourth quarter of fiscal 2007. Applied does not expect the implementation of this staff accounting bulletin to have a material effect on Applied's financial position or results of operations.

In July 2006, the FASB issued FASB Interpretation 48, "Accounting for Income Tax Uncertainties" (FIN 48). FIN 48 defines the threshold for recognizing the benefits of tax return positions in the financial statements as "more-likely-than-not" to be sustained by the taxing authority. The recently-issued literature also provides guidance on the derecognition, measurement and classification of income tax uncertainties, along with any related interest and penalties. FIN 48 also includes guidance concerning accounting for income tax uncertainties in interim periods and increases the level of disclosures associated with any recorded income tax uncertainties. FIN 48 will become effective for Applied beginning in fiscal 2008. Any differences between the amounts recognized in the statements of financial position prior to the adoption of FIN 48 and the amounts reported after adoption will be accounted for as a

APPLIED MATERIALS, INC.

NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS — (Continued)

cumulative-effect adjustment recorded to the beginning balances of goodwill, additional paid in capital or retained earnings. Applied is evaluating the potential impact of the implementation of FIN 48 on its financial position and results of operations.

**Note 16      Subsequent Events**

On August 28, 2007, Applied announced that it has agreed to purchase certain assets from BOC Edwards, Inc. of its Kachina semiconductor equipment parts cleaning and refurbishment business for an undisclosed amount, subject to certain closing conditions and is expected to be completed in the fourth quarter of fiscal 2007. The results of operations of this acquisition are not expected to have a material effect on Applied's fiscal 2007 financial condition or results of operations.

On June 25, 2007, Applied entered into an agreement with the shareholders of HCT Shaping Systems SA (HCT), a privately-held company based in Switzerland, to purchase all of the outstanding shares of HCT. The closing of the share purchase occurred on August 23, 2007, at which time HCT became a wholly-owned subsidiary of Applied. HCT is the world's leading supplier of precision wafering systems used principally in manufacturing crystalline silicon (c-Si) substrates for the solar industry. Applied paid the aggregate sum of approximately CHF (Swiss Francs) 583 million (or approximately US \$483 million) in cash for the shares. The acquisition is part of Applied's strategy to accelerate customers' ability to reduce the costs of c-Si photovoltaic cell manufacturing in order to make solar energy more competitive with grid electricity. HCT's wafering systems exactly section silicon ingots into thin substrates for use in fabricating c-Si solar cells. The HCT business and employees will be integrated within Applied's New Business and New Products Group and reported under the Adjacent Technologies segment.

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

Certain information contained in this Quarterly Report on Form 10-Q is forward-looking in nature. All statements in this Quarterly Report, including those made by the management of Applied, other than statements of historical fact, are forward-looking statements. Examples of forward-looking statements include statements regarding Applied’s future financial results, operating results, cash flows and cash deployment strategies, business strategies, projected costs, products, competitive position, management’s plans and objectives for future operations, acquisitions and joint ventures, growth opportunities, and legal proceedings; customers’ fab utilization rates, demand and spending; and, semiconductor and semiconductor-related industry trends. These forward-looking statements are based on management’s estimates, projections and assumptions as of the date hereof and include the assumptions that underlie such statements. Forward-looking statements may contain words such as “may,” “will,” “should,” “could,” “would,” “expect,” “plan,” “anticipate,” “believe,” “estimate,” “predict,” “potential” and “continue,” the negative of these terms, or other comparable terminology. Any expectations based on these forward-looking statements are subject to risks and uncertainties and other important factors, including those discussed below and in Part II, Item 1A, “Risk Factors.” Other risks and uncertainties may be disclosed from time to time in Applied’s other Securities and Exchange Commission (SEC) filings. These and many other factors could affect Applied’s future financial condition and operating results and could cause actual results to differ materially from expectations based on forward-looking statements made in this document or elsewhere by Applied or on its behalf. Applied undertakes no obligation to revise or update any forward-looking statements.

**Overview**

Applied provides nanomanufacturing technology™ solutions for the global semiconductor, liquid crystal display (LCD), solar and related industries, with a broad portfolio of innovative equipment, service and software products. Applied’s customers include manufacturers of semiconductor chips and wafers, LCDs, solar photovoltaic (PV) cells, flexible electronics and energy-efficient glass. Applied operates in four reportable segments: Silicon, Fab Solutions, Display, and Adjacent Technologies. Product development and manufacturing activities occur in North America, Europe, Israel and Asia. Applied’s broad range of equipment and service products are highly technical and are sold through a direct sales force.

As a supplier to the semiconductor and semiconductor-related industries, Applied’s results are driven by worldwide demand for integrated circuits, which in turn depends on end-user demand for electronic products. Applied’s business is subject to cyclical industry conditions as demand for manufacturing equipment and services can change depending on supply and demand for chips, LCD’s and other electronic devices as well as other factors, such as technological advances in fabrication processes.

The following table presents certain significant measurements for the three and nine months ended July 30, 2006 and July 29, 2007:

	Three Months Ended			Nine Months Ended		
	July 30, 2006	July 29, 2007	% Change	July 30, 2006	July 29, 2007	% Change
	(In millions, except per share amounts and percentages)			(In millions, except per share amounts and percentages)		
New orders	\$ 2,670	\$ 2,284	(14)%	\$ 7,199	\$ 7,471	4%
Net sales	\$ 2,543	\$ 2,561	1%	\$ 6,649	\$ 7,368	11%
Gross margin	\$ 1,223	\$ 1,216	(1)%	\$ 3,106	\$ 3,416	10%
Gross margin percent	48.1%	47.5%	(1)%	46.7%	46.4%	(1)%
Net income	\$ 512	\$ 474	(8)%	\$ 1,068	\$ 1,288	21%
Earnings per diluted share	\$ 0.33	\$ 0.34	3%	\$ 0.67	\$ 0.91	35%

Results for the first nine months of fiscal 2007 reflected improved conditions in the semiconductor industry that began with the industry’s recovery in 2006. During this period conditions in the display industry were mixed as manufacturers postponed capacity additions despite strong consumer demand. Orders and net sales increased during the first nine months of fiscal 2007 over the corresponding period in fiscal 2006, primarily due to strong



demand from DRAM and flash memory chip manufacturers, partially offset by a significant decline in the LCD equipment business as manufacturers absorbed capacity following substantial growth in 2006. Orders declined for the third quarter of fiscal 2007 compared to the prior year period reflecting the weakness in demand for LCD equipment, in addition to a drop in demand for equipment from foundries and logic customers and lower fab operations demand. Sales increased slightly for the third quarter of fiscal 2007, compared to the third quarter of fiscal 2006, as strength in memory was offset by lower fab operations spending.

Net income for the first nine months of fiscal 2007 improved compared to the same period in the prior year due to higher sales and lower restructuring and asset impairment charges and a continued focus on operating efficiency and cost controls, offset in part by lower interest income. Fiscal 2007 results included restructuring and asset impairment and other charges associated with ceasing development of beamline implant products, equity-based compensation expenses, and an in-process research and development (IPR&D) expense associated with the acquisition of certain net assets of Brooks Automation, Inc. (Brooks Software). Net income for the third quarter of fiscal 2007 declined compared to the same period in the prior year due to lower interest income and losses recognized on the equity method investment, partially offset by savings from a continued focus on operating efficiency and cost controls.

**Results of Operations**

Applied received new orders of \$2.3 billion for the third quarter of fiscal 2007, compared to \$2.6 billion for the second quarter of fiscal 2007 and \$2.7 billion for the third quarter of fiscal 2006. New orders for the third quarter of fiscal 2007 decreased by 14 percent from the preceding quarter and decreased by 14 percent from the third quarter of fiscal 2006. The decrease in new orders for the third quarter of fiscal 2007 from the previous quarter was primarily attributable to lower demand for semiconductor equipment for DRAM applications as customers absorbed recently-added capacity, compounded by lower demand for service products and continuing weakness in foundry and LCD equipment demand. New orders increased 4 percent to \$7.5 billion for the first nine months of fiscal 2007, compared to \$7.2 billion for the first nine months of fiscal 2006. Increased orders for the first nine months reflected increased demand for semiconductor manufacturing equipment and service products, partially offset by delays in investment by LCD customers.

New orders by geographic region (determined by the location of customers' facilities) for the past two consecutive quarters were as follows:

	<b>Three Months Ended</b>			
	<b>April 29, 2007</b>		<b>July 29, 2007</b>	
	(\$)	(%)	(\$)	(%)
	(Dollars in millions)			
Taiwan	781	30	715	31
Japan	378	14	454	20
Korea	410	15	430	19
North America*	403	15	271	12
Southeast Asia and China	389	15	216	9
Europe	287	11	198	9
<b>Total</b>	<b>2,648</b>	<b>100</b>	<b>2,284</b>	<b>100</b>

\* Primarily the United States.

Applied's backlog for the most recent three fiscal quarters was as follows: \$3.4 billion at July 29, 2007, \$3.7 billion at April 29, 2007, and \$3.6 billion at January 28, 2007. Backlog consists only of orders for which written authorizations have been accepted, shipment dates within 12 months have been assigned and revenue has not been recognized. Due to the potential for customer changes in delivery schedules or cancellation of orders, Applied's backlog at any particular time is not necessarily indicative of actual sales for any future periods.

Net sales increased 1 percent to \$2.6 billion for the third quarter of fiscal 2007, compared to \$2.5 billion for the second quarter of fiscal 2007 and the third quarter of fiscal 2006, reflecting higher net sales of semiconductor

equipment to memory application manufacturers, partially offset by continued delays in capital investment by LCD manufacturers and lower fab operations spending. Net sales increased 11 percent to \$7.4 billion for the first nine months of fiscal 2007, compared to \$6.6 billion for the first nine months of fiscal 2006, reflecting higher net sales of semiconductor equipment to memory application manufacturers, partially offset by continued delays in capital investment by LCD manufacturers.

Net sales by geographic region (determined by the location of customers' facilities) for the three and nine months ended July 30, 2006 and July 29, 2007 were as follows:

	Three Months Ended				Nine Months Ended			
	July 30, 2006		July 29, 2007		July 30, 2006		July 29, 2007	
	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)
	(In millions, except percentages)							
Taiwan	688	27	895	35	1,515	23	2,105	29
Korea	412	16	397	16	1,307	20	1,373	19
Southeast Asia and China	382	15	343	13	807	12	972	13
North America(*)	418	17	342	13	1,197	18	1,178	16
Japan	415	16	337	13	1,074	16	1,064	14
Europe	228	9	247	10	749	11	676	9
<b>Total</b>	<b>2,543</b>	<b>100</b>	<b>2,561</b>	<b>100</b>	<b>6,649</b>	<b>100</b>	<b>7,368</b>	<b>100</b>

\* Primarily the United States.

Gross margin percentage was 47.5 percent for the third quarter of fiscal 2007, compared to 48.1 percent for the third quarter of fiscal 2006. The decrease in the gross margin percentage for the third quarter of fiscal 2007 from that of the prior year's period was principally attributable to product mix, incremental charges attributable to acquisitions consisting of inventory fair value adjustments on products sold and amortization of purchased intangible assets, partially offset by higher revenue levels and lower material costs. Gross margin during the third quarters of fiscal 2006 and 2007 included \$9 million and \$8 million, respectively, of equity-based compensation expense.

Gross margin percentage was 46.4 percent for the first nine months of fiscal 2007, compared to 46.7 percent for the first nine months of fiscal 2006. The decrease in the gross margin percentage for the first nine months of fiscal 2007 from that of the prior year's period was principally attributable to inventory-related charges of \$53 million associated with ceasing development of beamline implant products, incremental charges attributable to acquisitions consisting of inventory fair value adjustments on products sold and amortization of purchased intangible assets and product mix, partially offset by higher revenue levels and lower material costs. Gross margin during the first nine months of fiscal 2006 and 2007 included \$27 million and \$22 million, respectively, of equity-based compensation expense.

Operating expenses included expenses related to RD&E, marketing and selling (M&S), and general and administrative (G&A). Expenses related to RD&E, M&S and G&A were \$543 million for the third quarter of fiscal 2007 compared to \$545 million for the third quarter of fiscal 2006, and \$1.6 billion for the first nine months of fiscal 2007 compared to \$1.5 billion for the first nine months of fiscal 2006. Higher operating expenses in these categories during the first nine months of fiscal 2007 compared to the same period in the prior year were principally attributable to increased operating costs from acquired businesses. These were partially offset by lower equity and variable compensation expenses and savings from cost control initiatives, including ceasing development of beamline implant products and transitioning to managed services providers to perform information technology and business infrastructure support. During the first nine months of fiscal 2007 and fiscal 2006, Applied recognized RD&E expenses for IPR&D charges related to acquisitions of \$5 million and \$14 million, respectively. (See Note 12 of the Notes to Consolidated Condensed Financial Statements.)

Operating expenses for the nine months ended July 29, 2007 include inventory-related charges reported as cost of products sold of \$53 million, other operating expenses of \$3 million and restructuring and asset impairment

charges of \$27 million associated with ceasing development of beamline implant products. (See Note 7 of Notes to Consolidated Condensed Financial Statements.)

Operating expenses during the first nine months of fiscal 2006 and 2007 included asset impairment and restructuring charges of \$211 million, and a benefit of \$4 million, respectively, related to the divestment of certain real estate. (See Note 7 of Notes to Consolidated Condensed Financial Statements.)

Net interest income was \$22 million and \$42 million for the three months ended July 29, 2007 and July 30, 2006, respectively and \$67 million and \$121 million for the nine months ended July 29, 2007 and July 30, 2006, respectively. Lower net interest income during the third quarter and first nine months of fiscal 2007 was primarily due to the reduction in cash and investments during the fourth quarter of fiscal 2006, when Applied repurchased 145 million shares of its outstanding common stock for an aggregate purchase price of \$2.6 billion under an accelerated buyback program. The repurchase was funded with Applied's existing cash and investments, resulting in lower interest income.

Applied's effective income tax rate for the third quarter of fiscal 2007 was 31.1 percent. Applied's effective income tax rate was 29.1 percent for the comparable quarter of fiscal 2006 and included benefits of \$34 million due primarily to a favorable resolution of audits of prior years' income tax filings. Applied's future effective income tax rate depends on various factors, such as tax legislation, the geographic composition of Applied's pre-tax income, and the tax rate on equity compensation. Management carefully monitors these factors and timely adjusts the effective income tax rate accordingly.

**Segment Information**

A description of the products and services, as well as financial data, for Applied's Silicon, Fab Solutions, Display, and Adjacent Technologies reportable segments can be found in Note 14 of Notes to Consolidated Condensed Financial Statements. Future changes to Applied's internal financial reporting structure may result in changes to the reportable segments disclosed. Applied does not allocate to its reportable segments certain operating expenses which are reported separately at the corporate level. These unallocated costs include charges for equity-based and certain components of variable compensation, corporate marketing and sales, corporate functions (certain management, finance, legal, human resources and RD&E), unabsorbed information technology and occupancy. Prior to the fourth quarter of fiscal 2006, Applied operated in one reportable segment. Accordingly, prior period amounts have been reclassified to conform to the current presentation. Discussions below include the results of each reportable segment for the three and nine months ended July 30, 2006 and July 29, 2007.

**Silicon Segment**

The Silicon segment includes semiconductor capital equipment for etch, front end, thin film, chemical mechanical planarization (CMP), and inspection. Development efforts are focused on solving customers' key technical challenges, including transistor performance and nanoscale patterning, and on reducing chip manufacturing costs. A significant portion of fiscal 2007 demand was attributable to a growing market for consumer products with increased memory content.

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In millions)		(In millions)	
New orders	\$ 1,850	\$ 1,614	\$ 4,881	\$ 5,308
Net sales	\$ 1,643	\$ 1,772	\$ 4,359	\$ 5,000
Operating income	\$ 586	\$ 702	\$ 1,429	\$ 1,829

Silicon new orders decreased 13 percent to \$1.6 billion for the third quarter of fiscal 2007, compared to \$1.9 billion for the third quarter of fiscal 2006, due to a drop in demand for equipment from foundries and logic customers. Decreased orders in thin films, inspection, etch, and beamline implant product were partially offset by increases in front end product orders. New orders increased 9 percent to \$5.3 billion for the first nine months of fiscal 2007, compared to \$4.9 billion for the first nine months of fiscal 2006, reflecting the semiconductor industry's growth during this period, driven by demand for cell phones, digital TVs, game consoles, MP3 players and other

electronic products. The majority of new orders were for memory applications as customers invested in leading-edge Flash and DRAM memory devices, while orders from foundries remained at low levels due to low utilization rates.

Net sales increased 8 percent to \$1.8 billion for the third quarter of fiscal 2007 from \$1.6 billion for the third quarter of fiscal 2006. Net sales increased 15 percent to \$5.0 billion for the first nine months of fiscal 2007, compared to \$4.4 billion for the first nine months of fiscal 2006. Increases in net sales for both periods were due to increased investment by memory and logic semiconductor customers in multiple areas, including etch, inspection, and front end products.

Operating income increased 20 percent to \$702 million for the third quarter of fiscal 2007 from \$586 million for the third quarter of fiscal 2006. Operating income increased 28 percent to \$1.8 billion for the first nine months of fiscal 2007, compared to \$1.4 billion for the first nine months of fiscal 2006. Operating income increases in both periods were due to higher revenue levels and continued focus on cost controls. Operating income for the first nine months of fiscal 2007 included charges of \$57 million related to ceasing development of beamline implant products.

#### ***Fab Solutions Segment***

The Fab Solutions segment consists of the services business that delivers products to improve the operating efficiency of customers' factories and includes spares and remanufactured equipment sales. Customer demand for spare parts and services is fulfilled through a global distribution system with trained service engineers located in close proximity to customer sites. This business is focused on expanding with technically-differentiated new products that reduce fab operation costs and enable customers to lessen the environmental impact of manufacturing.

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>July 30, 2006</b>	<b>July 29, 2007</b>	<b>July 30, 2006</b>	<b>July 29, 2007</b>
	<b>(In millions)</b>		<b>(In millions)</b>	
New orders	\$ 587	\$ 527	\$ 1,635	\$ 1,772
Net sales	\$ 602	\$ 554	\$ 1,620	\$ 1,624
Operating income	\$ 184	\$ 137	\$ 454	\$ 424

New orders decreased 10 percent to \$527 million for the third quarter of fiscal 2007, compared to \$587 million for the third quarter of fiscal 2006, due to lower orders for remanufactured equipment, partially offset by increased orders for spares and factory software products that became available with Applied's acquisition of Brooks Software. New orders increased 8 percent to \$1.8 billion for the first nine months of fiscal 2007, compared to \$1.6 billion for the first nine months of fiscal 2006. Increased orders for the first nine months reflected increased demand for spares parts and factory automation products acquired from Brooks Software.

Net sales decreased 8 percent to \$554 million for the third quarter of fiscal 2007, compared to \$602 million for the third quarter of fiscal 2006, reflecting lower sales for remanufactured equipment and spares, partially offset by increased factory software sales. Net sales of \$1.6 billion for the first nine months of fiscal 2007 were flat compared to the first nine months of fiscal 2006 and reflected declines in spares and remanufactured equipment sales, offset by increased factory software sales.

Operating income decreased 26 percent to \$137 million for the third quarter of fiscal 2007 from \$184 million for the third quarter of fiscal 2006 as a result of lower net sales and product mix. Operating income decreased 7 percent to \$424 million for the first nine months of fiscal 2007, compared to \$454 million for the first nine months of fiscal 2006, reflecting product mix and increased operating expenses and charges related to the recently acquired software division.

#### ***Display Segment***

The Display segment encompasses products and services for manufacturing liquid crystal flat panel displays for personal computers and TVs, including high-definition TVs. The Display segment is focused on expanding market share by differentiation with larger-scale substrates, entry into new markets, and development of products to enable cost reductions through productivity and uniformity.

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In millions)		(In millions)	
New orders	\$ 233	\$ 90	\$ 683	\$ 244
Net sales	\$ 298	\$ 206	\$ 670	\$ 640
Operating income	\$ 111	\$ 52	\$ 224	\$ 159

After a record year in fiscal 2006, display orders declined dramatically as customers absorbed factory capacity. New orders decreased 61 percent to \$90 million for the third quarter of fiscal 2007, compared to \$233 million for the third quarter of fiscal 2006. New orders decreased 64 percent to \$244 million for the first nine months of fiscal 2007, compared to \$683 million for the first nine months of fiscal 2006. Order declines in both periods reflected continued delays in capacity expansion plans by LCD panel makers in light of excess inventories and price declines.

Net sales decreased 31 percent to \$206 million for the third quarter of fiscal 2007 from \$298 million for the third quarter of fiscal 2006, and decreased 4 percent to \$640 million for the first nine months of fiscal 2007 from \$670 million for the first nine months of fiscal 2006. Decreases in net sales for both periods were attributable to lower investment by LCD manufacturers as they absorbed capacity.

Operating income decreased 53 percent to \$52 million for the third quarter of fiscal 2007 from \$111 million for the third quarter of fiscal 2006 due to lower revenue levels, lower factory absorption and product mix, partially offset by lower costs. Operating income decreased 29 percent to \$159 million for the first nine months of fiscal 2007, compared to \$224 million for the first nine months of fiscal 2006, due to lower revenues and factory absorption, product mix and higher operating expenses in support of the expanded product portfolio resulting from the acquisition of Applied Films in July 2006. Results for the three and nine months ended July 30, 2006 included a \$5 million IPR&D expense related to the acquisition of Applied Films.

#### **Adjacent Technologies Segment**

The Adjacent Technologies segment includes products and services for manufacturing solar cells, high throughput roll-to-roll coating systems for flexible electronics and web products, and energy-efficient glass. Applied began offering these products after the acquisition of Applied Films in the third quarter of fiscal 2006. The Adjacent Technologies segment is focused on delivering solutions to generate and conserve energy, with a focus on lowering the cost to produce solar electricity by providing equipment and services to enhance manufacturing scale and efficiency.

	Three Months Ended		Nine Months Ended	
	July 30, 2006	July 29, 2007	July 30, 2006	July 29, 2007
	(In millions)		(In millions)	
New orders	\$ —	\$ 53	\$ —	\$ 147
Net sales	—	\$ 29	—	\$ 103
Operating income/(loss)	\$ (9)	\$ (29)	\$ (9)	\$ (59)

New orders of \$53 million for the third quarter of fiscal 2007 decreased by 16 percent from the preceding quarter, due primarily to decreased orders of crystalline silicon solar products. Net sales of \$29 million for the third quarter of fiscal 2007 decreased by 33 percent from the preceding quarter due primarily to lower flexible electronics and solar net sales. Operating loss of \$29 million for the third quarter of fiscal 2007 increased from the preceding quarter reflecting lower revenues and increased RD&E spending to develop products and services that enable lower cost production of solar energy. Results for the three and nine months ended July 30, 2006 consisted of a \$9 million IPR&D expense related to the acquisition of Applied Films.

#### **Financial Condition, Liquidity and Capital Resources**

During the nine months ended July 29, 2007, cash, cash equivalents and investments increased by \$545 million, from \$3.2 billion as of October 29, 2006 to \$3.8 billion as of July 29, 2007.

Cash, cash equivalents and investments consist of the following:

	October 29, 2006	July 29, 2007
	(In millions)	
Cash and cash equivalents	\$ 861	\$ 1,113
Short-term investments	1,036	1,295
Long-term investments	1,315	1,349
Total cash, cash equivalents and investments	<u>\$ 3,212</u>	<u>\$ 3,757</u>

Applied generated \$1.5 billion of cash from operating activities for the nine months ended July 29, 2007. The primary source of operating cash flow for the nine months ended July 29, 2007 was net income, adjusted to exclude the effect of non-cash charges including depreciation, amortization, equity-based compensation, restructuring and asset impairments, and IPR&D expenses, which was partially offset by changes in operating assets and liabilities. Applied sold certain accounts receivable and discounted certain letters of credit totaling \$392 million for the nine months ended July 29, 2007. Days sales outstanding for the third quarter of fiscal 2007 increased to 80 days, compared to 76 days in the second quarter, primarily due to regional mix. Availability and usage of these accounts receivable sales programs depend on many factors, including the willingness of financial institutions to purchase accounts receivable and the cost of such arrangements. For further details regarding accounts receivable sales, see Note 3 of Notes to Consolidated Condensed Financial Statements.

Applied used \$580 million of cash for investing activities during the nine months ended July 29, 2007. Applied acquired certain net assets of Brooks Software for \$137 million in cash. Capital expenditures totaled \$204 million, including investment in Applied's new global development capability center in Xi'an, China, and in Applied's Business Transformation initiative to migrate to a single ERP software platform. Purchases of investments net of proceeds from sales and maturities of investments totaled \$262 million.

Applied used \$701 million of cash for financing activities during the nine months ended July 29, 2007, consisting primarily of \$932 million to repurchase common shares and payment of \$223 million in dividends to stockholders, partially offset by \$436 million received from the issuance of common stock under equity plans.

On June 19, 2007, Applied's Board of Directors declared a quarterly cash dividend in the amount of \$0.06 per share, payable on September 6, 2007 to stockholders of record as of August 16, 2007, for a total of \$83 million. On March 14, 2007, Applied's Board of Directors declared a quarterly cash dividend in the amount of \$0.06 per share, which was paid on June 7, 2007 to stockholders of record as of May 17, 2007, for a total of \$83 million. The declaration of any future cash dividends is at the discretion of the Board of Directors and will depend on Applied's financial condition, results of operations, capital requirements, business conditions and other factors.

Applied has credit facilities for unsecured borrowings in various currencies of up to approximately \$1.2 billion, of which \$1 billion is comprised of a 5-year revolving credit agreement with a group of banks that is scheduled to expire in January 2012. The agreement provides for borrowings at interest rates keyed to one of the two rates selected by Applied for each advance, and includes financial and other covenants with which Applied was in compliance at July 29, 2007. No amounts were outstanding under this agreement at July 29, 2007 (See Note 11 of Notes to Consolidated Condensed Financial Statements). A \$200 million principal payment is due and payable in October 2007 for current maturities of Applied's unsecured senior notes, which is expected to be paid from existing cash balances and cash generated from operations.

During the third quarter of fiscal 2007, Applied announced the signing of an agreement to acquire all of the outstanding shares of HCT Shaping Systems SA (HCT), a privately held company based in Switzerland, for approximately CHF (Swiss Francs) 583 million (or approximately US \$483 million) in cash. This transaction closed during the fourth quarter of fiscal 2007. During the third quarter of fiscal 2007, Applied announced that it agreed to purchase certain assets from BOC Edwards, Inc. of its Kachina semiconductor equipment parts cleaning and refurbishment business for an undisclosed amount. This transaction is expected to close in the fourth quarter of fiscal 2007. For additional information regarding these business combinations, see Note 16 of Notes to Consolidated Condensed Financial Statements.

In the ordinary course of business, Applied provides standby letters of credit or other guarantee instruments to certain parties as required for certain transactions initiated by either Applied or its subsidiaries. As of July 29, 2007, the maximum potential amount of future payments that Applied could be required to make under these guarantee arrangements was approximately \$136 million. Applied has not recorded any liability in connection with these guarantee arrangements beyond that required to appropriately account for the underlying transaction being guaranteed. Applied does not believe, based on historical experience and information currently available, that it is probable that any amounts will be required to be paid under these guarantee arrangements.

Although cash requirements will fluctuate based on the timing and extent of many factors such as those discussed above and in Part II, Item IA, "Risk Factors" below, Applied's management believes that cash generated from operations, together with the liquidity provided by existing cash balances and borrowing capability, will be sufficient to satisfy Applied's liquidity requirements for the next 12 months. For further details regarding Applied's operating, investing and financing activities, see the Consolidated Condensed Statements of Cash Flows.

#### **Critical Accounting Policies and Estimates**

The preparation of consolidated financial statements and related disclosures in conformity with accounting principles generally accepted in the United States requires management to make judgments, assumptions and estimates that affect the amounts reported. Certain of these significant accounting policies are considered to be critical accounting policies, as defined below.

A critical accounting policy is defined as one that is both material to the presentation of Applied's consolidated financial statements and requires management to make difficult, subjective or complex judgments that could have a material effect on Applied's financial condition or results of operations. Specifically, these policies have the following attributes: (1) Applied is required to make assumptions about matters that are highly uncertain at the time of the estimate; and (2) different estimates Applied could reasonably have used, or changes in the estimate that are reasonably likely to occur, would have a material effect on Applied's financial condition or results of operations.

Estimates and assumptions about future events and their effects cannot be determined with certainty. Applied bases its estimates on historical experience and on various other assumptions believed to be applicable and reasonable under the circumstances. These estimates may change as new events occur, as additional information is obtained and as Applied's operating environment changes. These changes have historically been minor and have been included in the consolidated financial statements as soon as they became known. In addition, management is periodically faced with uncertainties, the outcomes of which are not within its control and will not be known for prolonged periods of time. These uncertainties include those discussed in Part II, Item 1A, "Risk Factors." Based on a critical assessment of its accounting policies and the underlying judgments and uncertainties affecting the application of those policies, management believes that Applied's consolidated financial statements are fairly stated in accordance with accounting principles generally accepted in the United States of America, and provide a meaningful presentation of Applied's financial condition and results of operations. Management has discussed the development, selection and disclosure of significant estimates with the Audit Committee of our Board of Directors.

For further information about Applied's critical accounting policies, see the discussion of critical accounting policies in Applied's 2006 Form 10-K. Management believes that there has been no significant change during the nine months ended July 29, 2007 to the items disclosed as critical accounting policies in Applied's 2006 Form 10-K.

#### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Applied's investment portfolio includes fixed-income securities with a fair value of approximately \$2.7 billion at July 29, 2007. These securities are subject to interest rate risk and will decline in value if interest rates increase. Based on Applied's investment portfolio at July 29, 2007, an immediate 100 basis point increase in interest rates would result in a decrease in the fair value of the portfolio of approximately \$30 million. While an increase in interest rates reduces the fair value of the investment portfolio, Applied will not realize the losses in the consolidated condensed statement of operations unless the individual fixed-income securities are sold prior to recovery or the loss is determined to be other-than-temporarily impaired.

Certain operations of Applied are conducted in foreign currencies. Applied enters into currency forward exchange and option contracts to hedge a portion of, but not all, existing and anticipated foreign currency denominated transactions expected to occur within 12 months. Gains and losses on these contracts are generally recognized in income at the time that the related transactions being hedged are recognized. Because the effect of movements in currency exchange rates on currency forward exchange and option contracts generally offsets the related effect on the underlying items being hedged, these financial instruments are not expected to subject Applied to risks that would otherwise result from changes in currency exchange rates. Applied does not use derivative financial instruments for trading or speculative purposes. Net foreign currency gains and losses were not material for the nine months ended July 30, 2006 and July 29, 2007.

**Item 4. Controls and Procedures**

As required by Rule 13a-15(b) under the Securities Exchange Act of 1934, as amended (Exchange Act), Applied's management, including the Chief Executive Officer and Chief Financial Officer, conducted an evaluation as of the end of the period covered by this report, of the effectiveness of Applied's disclosure controls and procedures as defined in Exchange Act Rule 13a-15(e). Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that Applied's disclosure controls and procedures were effective as of the end of the period covered by this report in ensuring that information required to be disclosed in our SEC reports is (i) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and (ii) accumulated and communicated to Applied's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

As required by Rule 13a-15(d), Applied management, including the Chief Executive Officer and Chief Financial Officer, also conducted an evaluation of Applied's internal control over financial reporting to determine whether any changes occurred during the fiscal quarter that have materially affected, or are reasonably likely to materially affect, Applied's internal control over financial reporting. Based on that evaluation, there has been no such change during the fiscal quarter.

It should be noted that any system of controls, however well designed and operated, can provide only reasonable, and not absolute, assurance that the objectives of the system will be met. In addition, the design of any control system is based in part upon certain assumptions about the likelihood of future events.

**PART II. OTHER INFORMATION**

**Item 1. Legal Proceedings**

The information set forth above under Note 6 contained in the "Notes to Consolidated Condensed Financial Statements" is incorporated here by reference.

**Item 1A. Risk Factors**

The risk factors set forth below include any material changes to, and supersede the description of, the risk factors disclosed in Item 1A of the 2006 Form 10-K.

***The industries that Applied serves are volatile and unpredictable.***

As a supplier to the global semiconductor and semiconductor-related industries, Applied is subject to business cycles, the timing, length and volatility of which can be difficult to predict and which may vary by reportable segment. The industries have historically been cyclical due to sudden changes in customers' manufacturing capacity requirements and spending, which depend in part on capacity utilization, demand for customers' products, and inventory levels relative to demand. The effects on Applied of these changes in demand, including end-customer demand, are occurring more rapidly. These changes have affected the timing and amounts of customers' purchases and investments in technology, and continue to affect Applied's orders, net sales, gross margin, contributed profit and results of operations.



Applied must effectively manage its resources and production capacity to meet changing demand. During periods of increasing demand for semiconductor and semiconductor-related manufacturing equipment, Applied must have sufficient manufacturing capacity and inventory to meet customer demand; must be able to attract, retain and motivate a sufficient number of qualified individuals; and must effectively manage its supply chain. During periods of decreasing demand, Applied must be able to appropriately align its cost structure with prevailing market conditions, as well as motivate and retain key employees and effectively manage its supply chain. If Applied is not able to timely and appropriately adapt to changes in industry cycles, Applied's business, financial condition or results of operations may be materially and adversely affected.

***Applied is exposed to risks as a result of ongoing changes in the semiconductor and semiconductor-related industries.***

The global industries in which Applied operates are characterized by ongoing changes, including: (1) higher capital requirements for building and operating new semiconductor and LCD fabrication plants and the ability to raise the necessary capital; (2) the importance of reducing the cost of system ownership, due in part to the increasing significance of consumer electronics as a driver for semiconductor and display demand and the related focus on lower prices; (3) the heightened importance to customers of system reliability and productivity, and the effect on demand for systems as a result of their increasing productivity, device yield and reliability; (4) the increasing complexity and cost of process development; (5) a significant increase in the number and importance of new materials and the importance of expertise in chemical processes and device structure; (6) the growing types and varieties of semiconductors and expanding number of applications across multiple substrate sizes, resulting in customers' divergent technical demands and different rates of spending on capital equipment; (7) customers' varying adoption rates of new technology; (8) varying levels of business information technology spending; (9) demand for shorter cycle times for the development, manufacture and installation of manufacturing equipment; (10) differing rates of market growth for, and capital investments by, various semiconductor device makers, such as memory (including NAND flash and DRAM), logic and foundry, as well as display and solar manufacturers; (11) the increasing difficulty for customers to move from product design to volume manufacturing; (12) the challenge to semiconductor manufacturers of moving volume manufacturing from one technology node to the next smaller technology node and the resulting impact on the technology transition rate; (13) the increasing cost and reduced affordability of research and development due to many factors, including decreasing linewidths and the increasing number of materials, applications and process steps; (14) the increasing complexity and cost of semiconductor chip designs; (15) the industry growth rate; (16) price trends for certain semiconductor devices and LCDs; (17) the increasing importance of the availability of spare parts to assure maximum system uptime; (18) the reduced affordability of any transition to silicon substrates larger than 300 mm; and (19) the increasing importance of operating flexibility to enable different responses to different markets, customers and applications. If Applied does not successfully manage the risks resulting from the ongoing changes occurring in the semiconductor and semiconductor-related industries, its business, financial condition and results of operations could be materially and adversely affected.

***Applied must adapt its business and product offerings to respond to competition and rapid technological changes.***

As Applied operates in a highly competitive environment, its future success depends on many factors, including the effective development, commercialization and customer acceptance of its nanomanufacturing technology equipment, service and related products. In addition, Applied must successfully execute its growth strategy, including enhancing market share in existing markets, expanding into related markets, and cultivating new markets, while constantly improving its operational performance. The development, introduction and support of a broadening set of products in more varied competitive environments have grown increasingly complex and expensive over time. Applied's success is subject to many risks, including but not limited to its ability to timely, cost-effectively and successfully: (1) improve and develop new applications for products; (2) increase market share in its existing markets and expand its markets; (3) develop, appropriately price, and achieve market acceptance of new products; (4) appropriately allocate resources, including RD&E funding, among Applied's products and between the development of new products and the improvement of existing products; (5) accurately forecast demand and meet production schedules for its products; (6) achieve cost efficiencies across product offerings;

(7) adapt to technology changes in related markets, such as lithography; (8) develop, market and price similar products for use by customers in different applications and/or markets that may have varying technical requirements; (9) adapt to changes in value offered by companies in different parts of the supply chain; (10) qualify products for volume manufacturing with its customers; (11) implement changes in its design engineering methodology, including those that enable significant decreases in material costs and cycle time, greater commonality of platforms and types of parts used in different systems, and effective product life cycle management; and (12) improve its manufacturing processes. Furthermore, new or improved products may involve higher costs and reduced margins. If Applied does not successfully manage these challenges, its business, financial condition and results of operations could be materially and adversely affected.

***The entry into related and new markets entails additional challenges.***

As part of its growth strategy, Applied must successfully expand into or develop related and new markets, either with its existing nanomanufacturing technology products or with new products developed internally or obtained through acquisitions. The entry into different markets involves additional challenges, including those arising from: (1) Applied's ability to anticipate demand and capitalize on opportunities, and avoid or minimize risks, in new markets; (2) new customers and suppliers, including some with limited operating histories, uncertain and/or limited funding, and/or locations in regions where Applied does not have existing operations; (3) the adoption of new business models, such as the supply of a suite of Applied and non-Applied equipment sufficient to manufacture solar panels; (4) difficulties in production planning and execution; (5) new materials, processes and technologies; (6) Applied's ability to drive efficiencies and cost reductions; (7) the need to attract, motivate and retain employees with skills and expertise in these new markets; (8) different service requirements; and (9) intellectual property rights of existing participants in the market. Applied has entered the emerging solar market, which is subject to ongoing changes in demand for photovoltaic (PV) products arising from, among other things, fluctuations in the cost of fossil fuels and electric power, availability of government incentives, the performance and reliability of PV technology, and the success of other renewable energy sources. If Applied does not successfully manage the risks resulting from entry into new markets and industries, its business, financial condition and results of operations could be materially and adversely affected.

***Applied is exposed to the risks of operating a global business.***

In the third quarter of fiscal 2007, approximately 87 percent of Applied's net sales were to customers in regions outside the United States. A rising percentage of Applied's business is from customers in Asia. Certain of Applied's RD&E and manufacturing facilities, as well as suppliers to Applied, are also located outside the United States. Managing Applied's global operations presents challenges, including but not limited to those arising from: (1) global uncertainties with respect to economic growth rates in various countries; (2) varying regional and geopolitical business conditions and demands; (3) global trade issues; (4) variations in protection of intellectual property and other legal rights in different countries; (5) concerns of U.S. governmental agencies regarding possible national commercial and/or security issues posed by the growing manufacturing business in Asia; (6) fluctuating raw material and energy costs; (7) variations in the ability to develop relationships with suppliers and other local businesses; (8) changes in laws and regulations of the United States (including export restrictions) and other countries, as well as their interpretation and application; (9) fluctuations in interest rates and currency exchange rates; (10) the need to provide sufficient levels of technical support in different locations; (11) political instability, natural disasters (such as earthquakes, floods or storms), pandemics, terrorism or acts of war where Applied has operations, suppliers or sales; (12) cultural differences; (13) special customer- or government-supported efforts to promote the development and growth of local competitors; and (14) shipping costs and/or delays. Many of these challenges are present in China, which is experiencing significant growth of both suppliers and prospective competitors to Applied, and which Applied believes presents a large potential market for its products and opportunity for growth over the long term. In addition, Applied must regularly reassess the size, capability and location of its global infrastructure and make appropriate changes. These challenges may materially and adversely affect Applied's business, financial condition and results of operations.

***Applied is exposed to risks associated with a highly concentrated semiconductor customer base.***

Applied's semiconductor customer base historically has been, and is becoming even more, highly concentrated. Orders from a relatively limited number of manufacturers have accounted for, and are expected to continue to account for, a substantial portion of Applied's net sales. In addition, the mix and type of customers, and sales to any single customer, may vary significantly from quarter to quarter and from year to year. If customers do not place orders, or they delay or cancel orders, Applied may not be able to replace the business. As Applied's products are configured to customer specifications, changing, rescheduling or canceling orders may result in significant non-recoverable costs. Major customers may also seek, and on occasion receive, pricing, payment, intellectual property-related or other commercial terms that are less favorable to Applied. In addition, certain customers have undergone significant ownership changes, have outsourced manufacturing activities, and/or have entered into strategic alliances or industry consortia that have increased the influence of key semiconductor manufacturers in technology decisions made by their partners, which may result in additional complexities in managing customer relationships and transactions. These factors could have a material adverse effect on Applied's business, financial condition and results of operations.

***Applied is exposed to risks associated with acquisitions and strategic investments.***

Applied has made, and in the future intends to make, acquisitions of, and investments in, companies, technologies or products in existing, related or new markets for Applied. Acquisitions involve numerous risks, including but not limited to: (1) diversion of management's attention from other operational matters; (2) inability to complete acquisitions as anticipated or at all; (3) inability to realize anticipated benefits; (4) failure to commercialize purchased technologies; (5) inability to capitalize on characteristics of new markets that may be significantly different from Applied's existing markets; (6) inability to obtain and protect intellectual property rights in key technologies; (7) ineffectiveness of an acquired company's internal controls; (8) impairment of acquired intangible assets as a result of technological advancements or worse-than-expected performance of the acquired company or its product offerings; (9) unknown, underestimated and/or undisclosed commitments or liabilities; (10) excess or underutilized facilities; and (11) ineffective integration of operations, technologies, products or employees of the acquired companies. Applied also makes strategic investments in other companies, including companies formed as joint ventures, which may decline in value and/or not meet desired objectives. The success of these investments depends on various factors over which Applied may have limited or no control and, particularly with respect to joint ventures, requires ongoing and effective cooperation with strategic partners. Mergers and acquisitions and strategic investments are inherently subject to significant risks, and the inability to effectively manage these risks could materially and adversely affect Applied's business, financial condition and results of operations.

***Manufacturing interruptions or delays could affect Applied's ability to meet customer demand, while the failure to estimate customer demand accurately could result in excess or obsolete inventory.***

Applied's business depends on its ability to supply equipment, services and related products that meet the rapidly changing requirements of its customers, which depends in part on the timely delivery of parts, components and subassemblies (collectively, parts) from suppliers. Some key parts may be subject to long lead-times and/or obtainable only from a single supplier or limited group of suppliers, and some sourcing or subassembly is provided by suppliers in developing regions, including China. Significant interruptions of manufacturing operations or the delivery of services as a result of: (1) the failure or inability of suppliers to timely deliver quality parts; (2) volatility in the availability and cost of materials; (3) difficulties or delays in obtaining required export approvals; (4) information technology or infrastructure failures; (5) natural disasters (such as earthquakes, floods or storms); or (6) other causes (such as regional economic downturns, pandemics, political instability, terrorism or acts of war), could result in delayed deliveries, manufacturing inefficiencies, increased costs or order cancellations. Moreover, if actual demand for Applied's products is different than expected, Applied may purchase more/fewer parts than necessary or incur costs for canceling, postponing or expediting delivery of parts. Any or all of these factors could materially and adversely affect Applied's business, financial condition and results of operations.

***The failure to successfully implement and conduct offshoring and outsourcing activities and other operational initiatives could adversely affect results of operations.***

To better align costs with market conditions, increase its presence in growing markets, improve its tax structure, and enhance productivity and operational efficiency, Applied conducts engineering, software development and other operations in regions outside the United States, particularly India and China, and outsources certain functions to third parties, including companies in the United States, India, China and other countries. Outsourced functions include certain engineering, manufacturing, customer support, software development, information technology support and administrative activities. The expanding role of third party providers has required changes to Applied's existing operations and the adoption of new procedures and processes for retaining and managing these providers in order to protect Applied's intellectual property. In addition, Applied has implemented several key operational initiatives intended to improve manufacturing efficiency, including integrate-to-order, module-final-test and merge-in-transit programs. Applied also is implementing a multi-year, company-wide program to transform certain business processes, which includes transitioning to a single-vendor enterprise resource planning (ERP) software system to perform various functions. If Applied does not effectively develop and implement its offshoring and outsourcing strategies, if required export and other governmental approvals are not timely obtained, if Applied's third party providers do not perform as anticipated, or if there are delays or difficulties in implementing a new ERP system or enhancing business processes, Applied may not realize productivity improvements or cost efficiencies, and may experience operational difficulties, increased costs, manufacturing interruptions or delays, loss of its intellectual property rights, quality issues, increased product time-to-market and/or inefficient allocation of human resources, any or all of which could materially and adversely affect Applied's business, financial condition and results of operations.

***The ability to attract, retain and motivate key employees is vital to Applied's success.***

Applied's success and competitiveness depend in large part on its ability to attract, retain and motivate key employees. Achieving this objective may be difficult due to many factors, including fluctuations in global economic and industry conditions, changes in Applied's management or leadership, competitors' hiring practices, and the effectiveness of Applied's compensation programs, including its equity-based programs. Applied regularly evaluates its overall compensation program and makes adjustments, as appropriate, to enhance its competitiveness. If Applied does not successfully attract, retain and motivate key employees, Applied's ability to capitalize on its opportunities and its operating results may be materially and adversely affected.

***Changes in tax rates or tax liabilities could affect results of operations.***

As a global company, Applied is subject to taxation in the United States and various other countries. Significant judgment is required to determine and estimate worldwide tax liabilities. Applied's future annual and quarterly tax rates could be affected by numerous factors, including changes in the (1) applicable tax laws; (2) composition of earnings in countries with differing tax rates; or (3) valuation of Applied's deferred tax assets and liabilities. In addition, Applied is subject to regular examination of its income tax returns by the Internal Revenue Service and other tax authorities. Applied regularly assesses the likelihood of favorable or unfavorable outcomes resulting from these examinations to determine the adequacy of its provision for income taxes. Although Applied believes its tax estimates are reasonable, there can be no assurance that any final determination will not be materially different from the treatment reflected in Applied's historical income tax provisions and accruals, which could materially and adversely affect Applied's results of operations.

***Applied is exposed to various risks related to legal proceedings or claims and protection of intellectual property rights.***

Applied from time to time is, and in the future may be, involved in legal proceedings or claims regarding patent infringement, intellectual property rights, antitrust, environmental regulations, securities, contracts, product performance, product liability, unfair competition, employment and other matters. In addition, Applied on occasion receives notification from customers who believe that Applied owes them indemnification or other obligations related to claims made against customers by third parties. These legal proceedings and claims, whether with or without merit, may be time-consuming and expensive to prosecute or defend and also divert management's

attention and resources. There can be no assurance regarding the outcome of current or future legal proceedings or claims. Applied previously entered into a mutual covenant-not-to-sue arrangement with one of its competitors to decrease the risk of patent infringement lawsuits in the future. There can be no assurance that the intended results of this arrangement will be achieved or that Applied will be able to adequately protect its intellectual property rights with the restrictions associated with such a covenant. In addition, Applied's success depends in significant part on the protection of its intellectual property and other rights. Infringement of Applied's rights by a third party, such as the unauthorized manufacture or sale of equipment or spare parts, could result in uncompensated lost market and revenue opportunities for Applied. Applied's intellectual property rights may not provide significant competitive advantages if they are circumvented, invalidated, rendered obsolete by the rapid pace of technological change, or if Applied does not adequately assert these rights. Furthermore, the laws and practices of other countries, including China, Taiwan and Korea, permit the protection and enforcement of Applied's rights to varying extents, which may not be sufficient to protect Applied's rights. If Applied is not able to obtain or enforce intellectual property rights, resolve or settle claims, obtain necessary licenses on commercially reasonable terms, and/or successfully prosecute or defend its position, Applied's business, financial condition and results of operations could be materially and adversely affected.

***Applied is subject to risks of non-compliance with environmental and safety regulations.***

Applied is subject to environmental and safety regulations in connection with its global business operations, including but not limited to regulations related to the development, manufacture and use of its products; recycling and disposal of materials used in its products; the operation of its facilities; and the use of its real property. Failure or inability to comply with existing or future environmental and safety regulations could result in significant remediation liabilities, the imposition of fines and/or the suspension or termination of development, manufacture, sale or use of certain of its products, and/or may affect the operation of its facilities, use or value of its real property, each of which could have a material adverse effect on Applied's business, financial condition and results of operations.

***Applied is exposed to various risks related to the regulatory environment.***

Applied is subject to various risks related to: (1) new, different, inconsistent or even conflicting laws, rules and regulations that may be enacted by legislative bodies and/or regulatory agencies in the countries in which Applied operates; (2) disagreements or disputes between national or regional regulatory agencies related to international trade; and (3) the interpretation and application of laws, rules and regulations. If Applied is found by a court or regulatory agency not to be in compliance with applicable laws, rules or regulations, Applied's business, financial condition and results of operations could be materially and adversely affected.

***Applied is subject to internal control evaluations and attestation requirements of Section 404 of the Sarbanes-Oxley Act.***

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, Applied must include in its annual report on Form 10-K a report of management on the effectiveness of Applied's internal control over financial reporting and an attestation by Applied's independent registered public accounting firm to the adequacy of management's assessment of Applied's internal control. Ongoing compliance with these requirements is complex, costly and time-consuming. If (1) Applied fails to maintain effective internal control over financial reporting; (2) Applied's management does not timely assess the adequacy of such internal control; or (3) Applied's independent registered public accounting firm does not timely attest to the evaluation, Applied could be subject to regulatory sanctions and the public's perception of Applied may decline.

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

The following table provides information as of July 29, 2007 with respect to the shares of common stock repurchased by Applied during the third quarter of fiscal 2007:

Period	Total Number of Shares Purchased (Shares in thousands)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Program* (Shares in thousands)	Maximum Dollar Value of Shares That May Yet be Purchased Under the Program* (Dollars in millions).
Month #1 (April 30, 2007 to May 27, 2007)	1,163	\$ 19.12	1,163	\$ 4,578
Month #2 (May 28, 2007 to June 24, 2007)	8,536	\$ 19.33	8,536	\$ 4,413
Month #3 (June 25, 2007 to July 29, 2007)	10,386	\$ 20.48	10,386	\$ 4,200
Total	20,085	\$ 19.91	20,085	

\* On September 15, 2006, the Board of Directors approved a new stock repurchase program for up to \$5.0 billion in repurchases over the next three years, ending September 2009.

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Submission of Matters to a Vote of Security Holders**

None.

**Item 5. Other Information**

None.

**Item 6. Exhibits**

Exhibits are numbered in accordance with the Exhibit Table of Item 601 of Regulation S-K:

Exhibit No	Description
10.49	Applied Materials, Inc. amended and restated 2005 Executive Deferred Compensation Plan, incorporated by reference to Applied's Form 8-K (file no. 000-06920) filed July 13, 2007
10.50	Applied Materials, Inc. amended and restated Global Executive Incentive Plan
10.51	Share Purchase Agreement among Applied Materials, Inc., the Shareholders of HCT Shaping Systems SA and Sellers' Representative dated June 25, 2007
10.52	Separation Agreement and Release between Applied Materials, Inc. and Farhad Moghadam dated July 19, 2007
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

**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.

APPLIED MATERIALS, INC.

By: \_\_\_\_\_ /s/ GEORGE S. DAVIS  
George S. Davis  
Senior Vice President,  
Chief Financial Officer  
(Principal Financial Officer)

August 30, 2007

By: \_\_\_\_\_ /s/ YVONNE WEATHERFORD  
Yvonne Weatherford  
Corporate Vice President,  
Corporate Controller  
(Principal Accounting Officer)

August 30, 2007

APPLIED MATERIALS, INC.  
GLOBAL EXECUTIVE INCENTIVE PLAN  
(Amended and Restated Effective as of October 30, 2006)

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**APPLIED MATERIALS, INC.**  
**GLOBAL EXECUTIVE INCENTIVE PLAN**  
**(Amended and Restated Effective as of October 30, 2006)**

1. ESTABLISHMENT AND PURPOSE

Applied Materials, Inc. (the "Company"), having established the Applied Materials, Inc. Global Executive Incentive Plan (the "Plan") effective as of September 6, 2000, hereby amends and restates the Plan in its entirety effective as of October 30, 2006. The Plan is intended to increase shareholder value and the success of the Company and its affiliates by motivating Plan participants to perform to the best of their abilities, and to achieve and even exceed the Company's objectives. The Plan's goals are to be achieved by providing Plan participants with the potential to receive incentive awards based on their meeting or exceeding performance goals set for them, their business units, and/or the Company.

2. DEFINITIONS

The following terms will have the following meanings unless a different meaning is plainly required by the context:

2.1. "Committee" means the Company's Chief Executive Officer (the "CEO") or a committee of one or more members appointed by the CEO to administer the Plan. Notwithstanding the foregoing, in the case of a Section 16 Officer, "Committee" means the HRCC.

2.2. "Company," means Applied Materials, Inc., a Delaware corporation.

2.3. "Disability," means a Participant's disability occurring during a Plan Year for which the Participant actually receives benefits under a Company-sponsored long-term disability plan.

2.4. "HRCC" means the Human Resources and Compensation Committee of the Board of Directors of the Company.

2.5. "Participant" means as to any Plan Year, an employee of the Company or its affiliate who is in Global Job Group Senior Executive through x50 or x70 through x72 with the title of Distinguished Member Technical Staff, Fellow, Distinguished Fellow, Director, Senior Director, Managing Director, Appointed Vice President, Corporate Vice President, Group Vice President, Senior Vice President or Executive Vice President. Notwithstanding the foregoing, the Committee (in its sole discretion) may determine that an otherwise eligible employee will not be a Participant in the Plan for a given Plan Year.

2.6. "Payable Award" means the award (if any) payable to a Participant under the Plan for a Plan Year.

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2.7. "Payout Formula" means as to any Plan Year, the formula or payout matrix established pursuant to Section 3.3 to guide the determination of any Payable Awards to be paid to Participants for that Plan Year. The formula or matrix may differ from Participant to Participant and may differ from Plan Year to Plan Year.

2.8. "Performance Goals" means the financial and/or operational goals applicable to a Participant for a Plan Year. Performance Goals may differ from Participant to Participant and may differ from Plan Year to Plan Year.

2.9. "Plan" means the Applied Materials, Inc. Global Executive Incentive Plan, as set forth in this instrument and as heretofore or hereafter amended from time to time.

2.10. "Plan Year" means the fiscal year of the Company.

2.11. "Retirement" means, with respect to any Participant, a termination of his or her employment with the Company and all of its affiliates after: (a) obtaining at least sixty (60) years of age and whose age plus Years of Service with the Company is not less than seventy (70) or (b) obtaining at least sixty-five (65) years of age.

2.12. "Section 16 Officer" means an employee of the Company or its affiliate who is subject to Section 16 of the Securities Exchange Act of 1934, as amended.

2.13. "Years of Service" means the number of months (or a fraction thereof) from a Participant's latest hire date with the Company or its affiliate to the date in question, divided by twelve (12). The Participant's latest hire date will be determined after giving effect to the non-401(k) plan principles of North American Human Resources Policy No. 2-06, Re-Employment of Former Employees/Bridging of Service, as such policy may be amended or superseded from time to time.

### 3. PARTICIPATION AND DETERMINATION OF AWARDS

3.1. Participation. All eligible Participants will be automatically enrolled in the Plan each Plan Year; provided, however, that an individual who first becomes a Participant after the first business day of the fourth quarter of a Plan Year may not be enrolled in the Plan for that Plan Year. Participation in the Plan is mandatory for any eligible Participants. Notwithstanding the foregoing, the Committee (in its sole discretion) may determine that an otherwise eligible employee will not be a Participant in the Plan for a given Plan Year. Accordingly, a Participant who participates in the Plan in a given Plan Year is not in any way guaranteed or assured of participation in the Plan in any subsequent Plan Year. Unless otherwise determined by the HRCC, a Participant in this Plan is not eligible for any other Company incentive plan, including, but not necessarily limited to, milestone plans, profit sharing plans, etc.

3.2. Determination of Performance Goals. The Committee, in its sole discretion, will establish written Performance Goals for each Participant for the Plan Year.

3.3. Determination of Payout Formula or Formulae. The Committee, in its sole discretion, will establish a Payout Formula or Payout Formulae for purposes of serving as a

guide for determining any Payable Awards. Each Payout Formula will (a) be in writing, (b) be based on a comparison of actual performance against the Performance Goals, (c) suggest a target Payable Award based on the assumption that the Performance Goals are met, and (d) set a maximum Payable Award.

3.4. Determination of Payable Awards. After the end of each Plan Year, the Committee will determine the extent to which each Participant exceeded, achieved, or missed his or her Performance Goals for the Plan Year. The Payable Award for each Participant will be determined by the Committee, in its sole discretion, with reference to the applicable Payout Formula. Notwithstanding any contrary provision of the Plan, the Committee, in its sole discretion, may increase, reduce, or eliminate a Participant's Payable Award based on whatever factors it deems relevant. The fact that a Participant achieved or exceeded his or her Performance Goals will not, in any respect, guarantee that the Participant will receive any Payable Award or any specific amount of Payable Award. A Participant will be eligible for consideration for a Payable Award if, during the Plan Year, the Participant terminates employment with the Company and its affiliates on account of Retirement, Disability or death. If a Participant's employment with the Company and its affiliates terminates prior to the end of the Plan Year for any reason other than Retirement, Disability, or death, he or she will not be entitled to the payment of a Payable Award for the Plan Year. A Participant may not be entitled to a Payable Award if he or she receives a written or final warning or is placed on a Performance Improvement Plan (PIP) during the Plan Year, in the discretion of the Committee.

#### 4. PAYMENT OF AWARDS

4.1. Right to Receive Payment. Each Payable Award will be paid solely from the Company's general assets. Nothing in this Plan will be construed to create a trust or to establish or evidence any Participant's claim of any right other than as an unsecured general creditor with respect to any payment to which he or she may be entitled.

4.2. Timing of Payment. Each Payable Award will be paid in a single lump sum in cash or by check within two and one-half calendar months after the end of the Plan Year for which the award is made. However, in the case of any Participant who was on a Company-approved personal leave of absence on the last day of the Plan Year, the payout (if any) will not be made until the Participant has returned to work for at least 90 consecutive days following his or her return from the leave of absence.

4.3. Taxes. Each Payable Award will be paid net of all applicable tax withholding and deductions.

4.4. Payment in Event of Participant's Death. If a Participant is deceased at the time a Payable Award is payable, then the Award will be paid to the Participant's estate or to the beneficiary or beneficiaries entitled thereto under the intestacy laws governing the disposition of the Participant's estate.

4.5. Payment Through Affiliate. Payable Awards may, in the Committee's discretion, be paid through the Company or any of its affiliates.

5. ADMINISTRATION

5.1. Committee is the Administrator. The Plan will be administered by the Committee.

5.2. Committee Authority. The Committee has all powers and discretion to administer the Plan and to control its operation, including, but not limited to, the power and discretion to (a) select Participants and make other determinations under Section 3, (b) make Plan rules and regulations to address any situation or condition not specifically provided for by the Plan, and (c) interpret the provisions of the Plan and any Payable Awards. Any determination, decision or action of the Committee (or any delegate of the Committee) in connection with the construction, interpretation, administration or application of the Plan will be final, conclusive, and binding upon all persons, and will be given the maximum possible deference permitted by law.

5.3 Delegation by the Committee. The Committee, in its sole discretion and on such terms and conditions as it may provide, may delegate all or part of its authority and/or powers under the Plan to one or more officers or other employees of the Company or its affiliates; provided, however, that any decision, action or determination under the Plan by any such delegate of the Committee will be subject to review and change by the Committee, in its sole discretion. Notwithstanding the foregoing, the Committee may not delegate its authority and/or powers under the Plan with respect to Section 16 Officers.

6. GENERAL PROVISIONS

6.1. Nonassignability. A Participant will have no right to assign or transfer any interest under this Plan.

6.2. No Effect on Employment. The Plan, participation in the Plan, and administration of the Plan do not confer any right upon any Participant for the continuation of his or her employment with the Company or its affiliates for any Plan Year or any other period. A Participant's employment with the Company or its affiliates is fully terminable at-will. The Company and its affiliates expressly reserve the right, which may be exercised at any time and without regard to when during a Plan Year such exercise occurs, to terminate any Participant's employment with or without cause, and to treat him or her without regard to the effect that such treatment might have upon him or her as a Participant.

6.3. No Individual Liability. Neither the Committee, nor any member of the Committee, nor any delegate of the Committee, nor any member of the HRCC will be liable for any determination, decision or action made or taken in good faith with respect to the Plan or any Payable Award under the Plan.

6.4. Integration. The Plan as stated in this document is the complete embodiment of the terms and conditions of the Plan and supersedes any prior versions of the Plan and any prior or contemporaneous agreements, promises, or representations concerning the subject matter of the Plan.

6.5. Amendment or Termination. The Committee or the HRCC may amend or terminate the Plan at any time and for any reason by a written amendment. No individual director, officer, or employee, regardless of his or her position at the Company or its affiliates, otherwise has the power to amend or alter the terms and conditions of the Plan, whether he or she purports to do so verbally or in writing.

6.6. Arbitration. Any dispute arising from or related to this Plan will be settled pursuant to the Applied Materials, Inc. Arbitration Policy.

6.7. Severability; Governing Law. If any provision of the Plan is found to be invalid or unenforceable, such provision will not affect the other provisions of the Plan, and the Plan will be construed in all respects as if such invalid provision had been omitted. The provisions of the Plan will be governed by and construed in accordance with the laws of the State of California, with the exception of California's conflict of laws provisions.

#### EXECUTION

IN WITNESS WHEREOF, Applied Materials, Inc., by its duly authorized officer, has executed the restated Plan document effective as of October 30, 2006.

APPLIED MATERIALS, INC.

By: /s/ Michael R. Splinter

Title: President and Chief Executive Officer

## SHARE PURCHASE AGREEMENT

dated 25 June 2007

among

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 918732

("Seller 1")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 758170

("Seller 2")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 757549

("Seller 3")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 778392

("Seller 4")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 758979

("Seller 5")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 825031

("Seller 6")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 814458

("Seller 7")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 838177

("Seller 8")

HSBC Global Custody Nominee (UK) Ltd., domiciled at 8 Canada Square, London E14 5HQ, United Kingdom, Account 918720

("Seller 9")

(Seller 1, Seller 2, Seller 3, Seller 4, Seller 5, Seller 6, Seller 7, Seller 8 and Seller 9 are hereinafter collectively referred to as "Financial Sellers")

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and

**Mr. Charles Hauser**, domiciled at Mont au source, Loudwaterdrive, Rickmansworth, WD3 4HJ Herts, United Kingdom

(“**Seller 10**”)

and

**Mr. André Müller**, domiciled at Sunnerainstrasse 8, 6353 Weggis, Switzerland

(“**Seller 11**”)

and

**Mr. Keith Anderson**, domiciled at 252, route de la Conversion, 1095 Lutry, Switzerland

(“**Seller 12**”)

and

**Mr. Stefan Schneeberger**, domiciled at Les Rochettes, 1595 Faoug, Switzerland

(“**Seller 13**”)

and

**Mr. Pierre Maréchal**, domiciled at 22, chemin des Chenevières, 1071 Chexbres, Switzerland

(“**Seller 14**”)

(Seller 11, Seller 12, Seller 13 and Seller 14 are hereinafter collectively referred to as  
“**Management Sellers**”)

(Financial Sellers, Seller 10 and Management Sellers are hereinafter collectively referred to as  
“**Sellers**”)

**Mr. Martin Anderson**, domiciled at 8, chemin de Plein-Champs, 1241 Puplinge, Switzerland, as the “**Sellers’ Representative**” (as defined in Article 11.2 below)

and

**Applied Materials, Inc.**, a company incorporated in the State of Delaware, in the United States of America, with its principal office at 3050 Bowers Avenue, Santa Clara, CA 95052-8039, or its designated affiliate

(“**Purchaser**”)

(Sellers, the Sellers’ Representative and Purchaser are hereinafter collectively referred to as  
“**Parties**”)

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**WHEREAS** HCT Shaping Systems SA (the “**Company**”) is a corporation incorporated in Cheseaux-sur-Lausanne, Switzerland, under no. CH-550-1022425-2 which has a share capital of CHF 12,726,980, divided into 755,598 fully paid-in privileged registered shares of classes A, B and C with a nominal value of CHF 10 each and 103,420 fully paid-in registered shares of class D with a nominal value of CHF 50 each.

**WHEREAS** Sellers own together all of the Shares (as defined in Article 1 below) of the Company.

**WHEREAS** Sellers intend to sell the Shares to Purchaser, and Purchaser intends to purchase such Shares from Sellers.

**NOW, THEREFORE** the Parties have come to the following agreement:

**ARTICLE 1**  
**DEFINITIONS**

As used in this Agreement, the following terms have the following meanings unless the context requires otherwise:

“**Acquired Companies**” means the Company and each of its Subsidiaries.

“**Acquired Company Contract**” means any Contract: (i) to which any of the Acquired Companies is a party; (ii) by which any of the Acquired Companies or any of its assets is bound or under which any of the Acquired Companies has, any obligation; or (iii) under which any of the Acquired Companies has any right or interest.

“**Acquired Company IP**” means all: (i) Intellectual Property Rights embodied in, pertaining to or necessary to develop, make, modify, use, market, distribute, import, export or sell any Acquired Company Product or any unique or specific method of manufacturing or using any Acquired Company Product; and (ii) Intellectual Property Rights in which any of the Acquired Companies has (or purports to have) an ownership interest or an exclusive license or similar exclusive right.

“**Acquired Company IP Contract**” means any Contract to which any of the Acquired Companies is or was a party or by which any of the Acquired Companies is or was bound, that contains any assignment or license of, or any covenant not to assert or enforce, any Intellectual Property Right or that otherwise relates to any Acquired Company IP or any Intellectual Property developed by, with or for any of the Acquired Companies.

“**Acquired Company Product**” means each tool, system, item of equipment and other product (including components and parts thereof) designed, developed, manufactured, marketed, sold, supplied, delivered, made available, installed, repaired, maintained, supported or retrofitted by any of the Acquired Companies, including the E-series wire saws, the Squarer, the Cropper, the Manual Orientation System (MOS), the Slurry Recovery Unit (SRU) and all related parts, peripherals and consumables.

“**Agreement**” means this Agreement and its Schedules, as amended from time to time pursuant to Article 11.5 below.

“**Claim**” means a claim for indemnification as set out in Article 7 below.

“**Closing**” means the consummation of the transaction contemplated in this Agreement in accordance with Article 3 below.

“**Closing Date**” means the date defined in Article 3.2 below.

“**Contract**” means any written, oral or other agreement, contract, understanding, arrangement, instrument or legally binding commitment or undertaking of any nature.

“**Disclosure Letter**” means the document referred to in Article 4 below.

“**Financial Statements**” means the consolidated balance sheets and the consolidated profit and loss statements of the Acquired Companies as of 31 January of each of 2005, 2006 and 2007 and as of 31 May 2007 that are attached as Schedule 1 hereto.

“**Governmental Body**” means any: (i) nation, state, commonwealth, province, territory, canton, county, municipality, district or other jurisdiction of any nature; (ii) federal, state, local, municipal, foreign or other government; or (iii) governmental or quasi-governmental authority of any nature.

“**HCHK**” means HCHK Limited, Hong Kong, a Hong Kong limited liability company, in which the Company has a 30% interest.

“**Intellectual Property**” means algorithms, apparatus, databases, data collections, diagrams, formulae, inventions (whether or not patentable), know-how, logos, marks, network configurations and architectures, methods and processes, proprietary information, protocols, recipes, schematics, specifications, software, software code (in any form, including source code and executable or object code), subroutines, techniques, user interfaces, URLs, utility models, web sites, works of authorship and other forms of technology (whether or not embodied in any tangible form and including all tangible embodiments of the foregoing, such as instruction manuals, prototypes, samples, studies and summaries).

“**Intellectual Property Rights**” means all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights and moral rights; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patent and industrial property rights; (v) other proprietary rights in Intellectual Property; and (vi) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses “(i)” through “(v)” above.

“**Legal Requirement**” means any national, federal, state, local, municipal, foreign or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule,

regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body.

“**Long-Stop Date**” means 30 September 2007 (or such later date as may be agreed to in writing by the Sellers’ Representative and Purchaser).

“**Person**” means any individual, corporation, partnership, firm, joint venture, association, joint stock company, trust, unincorporated organisation, Governmental Body or other entity.

“**Purchase Price**” means the price to be paid by Purchaser to Sellers for the acquisition of the Shares, as set out in Article 2.2 below.

“**Registered IP**” means all Intellectual Property Rights that are registered, filed or issued under the authority of, with or by any Governmental Body, including all patents, utility models, registered copyrights, registered trademarks, domain names and all applications for any of the foregoing.

“**Shares**” means all the shares of the Company, consisting of: (i) 755,598 fully paid-in privileged registered shares with a nominal value of CHF 10 each, divided into 490,900 shares of class A, 252,000 shares of class B and 12,698 shares of class C; and (ii) 103,420 fully paid-in registered shares with a nominal value of CHF 50 each, of class D.

“**Shares A**” means all the 490,900 shares of class A of the Company, each including privileges in terms of voting rights, dividends and liquidation proceeds in accordance with the articles of incorporation of the Company.

“**Shares B**” means all the 252,000 shares of class B of the Company, each including privileges in terms of voting rights, dividends and liquidation proceeds in accordance with the articles of incorporation of the Company.

“**Shares C**” means all the 12,698 shares of class C of the Company, each including privileges in terms of voting rights, dividends and liquidation proceeds in accordance with the articles of incorporation of the Company.

“**Shares D**” means all the 103,420 shares of class D of the Company, with no privileges in terms of voting rights, dividends and/or liquidation proceeds.

“**Signing**” means the conclusion of this Agreement by the authorised signatories of the Parties.

“**Signing Date**” means the date on which the Signing of this Agreement takes place, being the date set out on the cover page of this Agreement as set out under Article 3.1 below.

“**Specified Representations**” means the representations and/or warranties contained in Article 4.1, Article 4.2, Article 4.5, the fourth paragraph of Article 4.7 and Article 4.13 below.

“**Subsidiaries**” means all direct and indirect subsidiaries of the Company in which the Company has a majority interest.

“**Taxes**” means all taxes, whether actual or deferred, including in respect of income taxes, sales taxes, VAT, any turnover or cost related taxes, withholding taxes, stamp duties and any other transfer duties, payroll taxes, social security taxes and property taxes and all other levies, customs, taxes and public duties of any kind, and all penalties and interest relating to the foregoing.

**ARTICLE 2**  
**SALE AND PURCHASE OF SHARES, PURCHASE PRICE**

**2.1 Sale and Purchase of Shares**

Subject to the terms and conditions set out herein, Sellers hereby agree to sell to Purchaser, at the Closing, and Purchaser hereby agrees to buy from Sellers, at the Closing, the Shares.

The details of the Shares sold by each Seller to Purchaser are as set out in Schedule 2 hereto. Sellers agree to sell the Shares held by each of them severally and separately (except for the 3 Shares A held by directors in a fiduciary capacity, which are sold collectively by Financial Sellers).

**2.2 Purchase Price**

Subject to the following paragraphs, Purchaser agrees to pay (or cause to be paid) to Sellers the aggregate amount of CHF 582,785,000 (the “**Purchase Price**”) for the purchase of all the Shares sold pursuant to Article 2.1 above.

CHF 544,185,000 of the Purchase Price shall be paid by Purchaser to Sellers in full on the Closing Date in accordance with Article 3.3.1 below.

CHF 30,000,000 of the Purchase Price shall be deposited in an escrow account (the “**Indemnity Escrow Account**”) with UBS AG (the “**Indemnity Escrow Agent**”) pursuant to an escrow agreement among Purchaser, Sellers, the Sellers’ Representative and the Escrow Agent substantially in the form attached as Schedule 11 hereto (the “**Indemnity Escrow Agreement**”).

CHF 5,500,000 of the Purchase Price (the “**Seller 13 Deferral Amount**”) shall be withheld from the amount otherwise due to Seller 13 and deposited in an escrow account (the “**Deferral Escrow Account 13**”) with an escrow agent reasonably acceptable to Purchaser and Sellers 13 and 14 willing to act as escrow agent on terms substantially consistent with those set out in the form attached as Schedule 12 hereto (the “**Deferral Escrow Agent**”) pursuant to an escrow agreement among Purchaser, Seller 13 and the Deferral Escrow Agent substantially in the form attached as Schedule 12 hereto (the “**Seller 13 Deferral Escrow Agreement**”).

CHF 3,100,000 of the Purchase Price (the “**Seller 14 Deferral Amount**”) and, together with the Seller 13 Deferral Amount, the “**Deferral Escrow Amount**”) shall be withheld from the amount otherwise due to Seller 14 and deposited in an escrow account (the “**Deferral Escrow Account 14**”) and, together with the Seller 13 Deferral Escrow Account, the “**Deferral Escrow Accounts**”) with the Deferral Escrow Agent pursuant to an escrow agreement among Purchaser,



Seller 14 and the Deferral Escrow Agent, in each case pursuant to the Escrow Agreement substantially in the form attached as Schedule 13 hereto (the “**Seller 14 Deferral Escrow Agreement**” and, together with the Seller 13 Deferral Escrow Agreement, the “**Deferral Escrow Agreements**”).

The funds in the Indemnity Escrow Account shall be held, and released, in accordance with the provisions of the Indemnity Escrow Agreement. The funds in the Deferral Escrow Account 13 shall be held, and released, in accordance with Schedule 15 and the provisions in the Seller 13 Deferral Escrow Agreement. The funds in the Deferral Escrow Account 14 shall be held, and released, in accordance with Schedule 15 and the provisions in the Seller 14 Deferral Escrow Agreement. For the avoidance of doubt, the funds in the Deferral Escrow Accounts shall not be available for claims under Article 7.

### **ARTICLE 3** **SIGNING AND CLOSING**

#### **3.1 Signing**

The Parties shall sign this Agreement and initial the Schedules on the date set out on the cover page of this Agreement.

#### **3.2 Closing**

Provided that the conditions set forth in Article 9 are satisfied or waived, the Parties shall close and consummate the transaction contemplated by this Agreement (the “**Closing**”) at the offices of Baker & McKenzie, Chemin des Vergers 4, 1208 Geneva, Switzerland, on a date to be agreed in writing by Purchaser and the Sellers’ Representative, which date shall be no later than the third business day after the last to be satisfied or waived of the: (a) first of the alternative conditions set forth in Article 9.1 (a) to (e); (b) first of the alternative conditions set forth in Article 9.2 (a) to (b); and (c) first of the alternative conditions set forth in Article 9.3 (a) to (b) (or on any other date as may be agreed in writing by Purchaser and the Sellers’ Representative) (the date on which the Closing actually takes place being the “**Closing Date**”).

#### **3.3 Closing Actions**

On the Closing Date, the Parties shall carry out the following actions and deliveries, it being understood however that any action contemplated in this Article 3.3 shall only be effective upon the Parties subject to the condition that all other actions contemplated herein to be performed as of or prior to the Closing have also been performed by the respective Parties.

### 3.3.1 Payments by Purchaser

Purchaser shall pay or cause to be paid CHF 544,185,000 of the Purchase Price by wire transfer to the following account:

Account holder:	Bank Sal. Oppenheim jr. & Cie. (Schweiz) AG
Account number:	19.650.71G, for further credit to a/c 50'632 in the name of Martin Anderson (or any other account to be designated by the Sellers)
Bank:	UBS AG, Zurich, Switzerland
SWIFT:	UBSW CH ZZ 80A
Reference:	Project Lake

and shall transfer CHF 30,000,000 of the Purchase Price by wire transfer to the Indemnity Escrow Agent, to be held pursuant to the provisions of the Indemnity Escrow Agreement, and shall transfer an aggregate of CHF 5,500,000 of the Purchase Price that would otherwise be due to Seller 13 by wire transfer to the Deferral Escrow Agent, to be held in the Deferral Escrow Account 13 pursuant to the terms of the Seller 13 Deferral Escrow Agreement and an aggregate of CHF 3,100,000 of the Purchase Price that would otherwise be due to Seller 14 by wire transfer to the Deferral Escrow Agent, to be held in the Deferral Escrow Account 14 pursuant to the terms of the Seller 14 Deferral Escrow Agreement.

Sellers shall provide Bank Sal. Oppenheim jr. & Cie. (Schweiz) AG and the Escrow Agent with separate written instructions regarding the allocation of the Purchase Price amongst, and any distributions from the Indemnity Escrow Account to, Sellers, and Purchaser shall not be concerned in any way about the allocation of the Purchase Price amongst Sellers (it being understood and agreed by each Seller that after the wire transfers referred to above to Bank Sal. Oppenheim jr. & Cie. (Schweiz) AG and the Escrow Agent have been duly received on the respective accounts, Purchaser shall no longer have any liability with respect to the Purchase Price and Sellers shall look only to Bank Sal. Oppenheim jr. & Cie. (Schweiz) AG and the Escrow Agent for the payment of their portion of the consideration payable pursuant to this Agreement).

### 3.3.2 Deliveries by Sellers

Sellers shall deliver or cause to be delivered to Purchaser:

- (a) the 19 share certificates (numbered 1 to 19) representing all of the Shares, duly endorsed in blank by properly authorised signatories on behalf of each Seller;
- (b) the resolution of the Board of Directors of the Company: (i) approving the transfer of the Shares to Purchaser; and (ii) acknowledging that each of the Sellers has waived its or his statutory pre-emptive right to purchase the Shares sold by the other Sellers;
- (c) the shareholders' ledger of the Company, duly amended to include the name of Purchaser as the owner of all of the Shares;

(d) the originals of the resignation letters, dated as of the Closing Date, of each director of each Acquired Company from the Board of Directors of such Acquired Company substantially in the form enclosed in Schedule 3 hereto;

(e) the original resignation letter of the Company's auditors, PricewaterhouseCoopers;

(f) a certificate, duly executed by each Seller, pursuant to which such Seller certifies and represents to Purchaser that the conditions set forth in Articles 9.4, 9.5, 9.6 and 9.7 as they relate to such Seller (but not as they relate to any other Seller) have been duly satisfied; and

(g) a certificate, duly executed by each Management Seller, pursuant to which such Management Seller certifies and represents to Purchaser that the conditions set forth in Articles 9.8 and 9.9 have been duly satisfied.

#### *3.3.3 Signature of the Escrow Agreements*

Purchaser, Sellers and the Sellers' Representative shall sign the Indemnity Escrow Agreement.

Purchaser and Seller 13 shall sign the Seller 13 Deferral Escrow Agreement.

Purchaser and Seller 14 shall sign the Seller 14 Deferral Escrow Agreement.

#### **3.4 Shareholders' Meeting**

Immediately following the completion of the closing actions set out in Article 3.3 above, Purchaser shall hold or cause to be held an extraordinary shareholders' meeting of the Company to acknowledge the resignations of the members of Board of Directors and of the Company's auditors and to appoint new directors and auditors in replacement for the resigning directors and auditors. Purchaser further undertakes to subsequently vote in favour of the discharge of the resigning members of the Board of Directors in accordance with Article 8.8 below, provided that such discharge shall in no manner whatsoever limit or reduce the representations and warranties given by a Seller who is a member of the Board of Directors under this Agreement.

### **ARTICLE 4**

#### **REPRESENTATIONS AND WARRANTIES OF MANAGEMENT SELLERS**

The representations and warranties set out in this Article 4 are exclusively given and assumed by Management Sellers, to the exclusion of Financial Sellers and of Seller 10.

Management Sellers represent and warrant, jointly and severally, as of the Closing Date and, unless otherwise specified, as of the Signing Date as follows, subject to any items and qualifications that are contained or disclosed in the disclosure letter attached as Schedule 4 hereto (the "**Disclosure Letter**"):

#### 4.1 Authority and Enforceability

This Agreement constitutes the legal, valid and binding obligations of each of the Management Sellers which are enforceable in accordance with its terms.

No proceedings are pending or threatened against any of the Management Sellers in respect of any seizure of assets, personal bankruptcy, appointment of a receiver or similar action, and none of the Management Sellers will become insolvent as a result of the completion of the transactions contemplated hereunder. Management Sellers are not entering this Agreement with the intent to hinder, delay or defraud any third party creditor.

#### 4.2 Ownership

Each of the Management Sellers is the sole legal and beneficial owner of, and has good and valid title to, his corresponding number of Shares D and (in the case of Seller 11) Shares C, as set out in Schedule 2 hereto, free and clear of all liens, encumbrances, options, charges and claims of third parties, whether arising from any privilege, pledge or security arrangement or otherwise (collectively, "**Encumbrances**"). Each of the Management Sellers has full right and capacity to enter into and to perform his obligations under this Agreement, including to transfer and sell such good and valid title to such Shares D and Shares C to Purchaser.

Each of the Management Sellers has validly waived his statutory pre-emptive right to purchase the Shares sold by the other Sellers under this Agreement.

Upon delivery of the share certificates representing the relevant Shares D and Shares C held by each of the Management Sellers, and subject to the payment of the Purchase Price by Purchaser, Purchaser will receive good and valid title to all of the Shares D and Shares C, free and clear of all Encumbrances.

#### 4.3 No Conflict

The execution of this Agreement by Management Sellers does not, and the consummation of the transactions contemplated hereby by Management Sellers will not, directly or indirectly:

(a) contravene, conflict with or violate: (i) any provision of the articles of incorporation or other organisational documents, or any resolution adopted by the shareholders or Board of Directors of the Company; (ii) any applicable Legal Requirement order, writ, injunction, judgment or decree; or (iii) any Acquired Company Contract or any Contract to which any of the Management Sellers is a party or by which any of them is bound; or

(b) give any Person the right to: (i) declare a default or exercise any remedy under any Acquired Company Contract; (ii) accelerate the maturity or performance of any Acquired Company Contract; or (iii) cancel, terminate or modify any Acquired Company Contract.

None of the Acquired Companies or Management Sellers or, to the best of Management Sellers' knowledge, HCHK was, is or will be required to make any filing with or give any notice to, or to obtain any consent or approval from, any Person in connection with: (a) the execution, delivery

or performance of this Agreement; or (b) the consummation of any of the transactions contemplated by this Agreement.

#### **4.4 Organisation and Qualification**

Each Acquired Company and HCHK is duly organised and validly existing under the laws of its jurisdiction of organisation and has full right and authority to own and to operate its properties and to carry on its current business. Schedule 5 contains true copies of the articles of incorporation and organisational regulations of each Acquired Company and HCHK and an original of the excerpt of the Register of Commerce or equivalent document concerning each Acquired Company and HCHK as in force on the Signing Date.

#### **4.5 Capital Structure**

The Company has the capital set forth in Schedule 5. No further capital, non-voting stock, convertible or exercisable securities, options, warrants or similar rights in the Company have been, or will by the Closing Date be, created or issued or agreed to be issued by the Company. All the Shares to be sold pursuant to Article 2.1 above have been validly issued and fully paid in.

#### **4.6 Minutes of Shareholders' Meetings and of Board of Directors' Meetings**

Management Sellers have disclosed to Purchaser true and complete copies of all the minutes of shareholders' meetings and directors' meetings of each of the Acquired Companies held since 1 January 2005. Neither the shareholders' meeting nor the Board of Directors of any of the Acquired Companies have adopted any material resolutions since 1 January 2005 which are not recorded in these minutes.

#### **4.7 Financial Statements and Related Information; Bank Accounts**

Schedule 1 contains true and complete copies of the consolidated balance sheets and profit and loss statements of the Acquired Companies as of 31 January of each of 2005, 2006 and 2007 and as of 31 May 2007 (collectively, the "**Financial Statements**"). The Financial Statements: (a) are correct and complete in all material respects; (b) have been prepared in accordance with the International Financial Reporting Standards issued by IAS, consistently applied, except for the Financial Statements as of 31 May 2007 which have been prepared substantially in accordance with such standards but in accordance with the Company's usual management reporting format with respect to presentation; (c) show a true and fair view of the financial condition of the Acquired Companies as of the respective dates thereof; and (d) other than the Financial Statements as of 31 May 2007, have been approved without reservation by PricewaterhouseCoopers, the Company's auditors.

In particular, on the dates of the respective Financial Statements, the Acquired Companies had no more liabilities than those recorded on the relevant balance sheets (including the notes and/or attachments thereto). The Acquired Companies have no liabilities (whether accrued or contingent, matured or unmatured, due or to become due, whether or not required to be reflected in financial statements in accordance with the International Financial Reporting Standards issued by IAS, consistently applied) other than those: (a) identified as such in the "liabilities" column of the Financial Statements dated 31 May 2007 or in the notes thereto; (b) incurred by the Acquired

Companies since 31 May 2007 in the ordinary course of business and consistent with the Acquired Companies' past practices; or (c) under the Acquired Company Contracts that are expressly set forth and identifiable by reference to the text of such Acquired Company Contracts.

No Person that has ever acted as a distributor, reseller or sales representative (or in any similar capacity) for any of the Acquired Companies is owed or entitled to any commission, fee or other compensation from any Acquired Company, other than commissions, fees or compensation that have become due since 31 May 2007 in the ordinary course of business consistent with past practice and in accordance with the immediately following sentence. The commissions, fees and other compensation due (and to become due) to each Person who currently serves as a distributor, reseller or sales representative (or in any similar capacity) for any of the Acquired Companies are based on commission percentages not higher than the commission percentages described in the Disclosure Letter.

As of the date hereof none of the Acquired Companies has, and as of the Closing none of the Acquired Companies shall have, any outstanding indebtedness for borrowed money (or any similar indebtedness outstanding).

In addition, the applicable Acquired Company was the sole legal and beneficial owner of, and had good and valid title to, all assets listed on the balance sheets set forth in Schedule 1, free and clear of all Encumbrances. The tangible or intangible assets owned by, and validly licensed or leased or rented to, the Acquired Companies are (and will continue through the Closing to be) all of the tangible or intangible assets necessary to enable the Acquired Companies to conduct their businesses in the manner in which such businesses have been conducted and are currently being conducted.

None of the Acquired Companies has received any notice, no Management Seller has received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case indicating that any of the top ten customers (measured by number of Acquired Company Products ordered in the three-year period ending 31 January 2007) intends to cease dealing with any of the Acquired Companies.

Schedule 6 accurately sets forth, with respect to each account and safe deposit box (or similar arrangement) maintained by or for the benefit of any of the Acquired Companies at any bank or other financial institution: (a) the name and location of the institution at which such account, box or arrangement is maintained; (b) the name in which such account, box or arrangement is maintained and the account number of such account; (c) a description of such account and the purpose for which such account is used; and (d) the names of all individuals authorised to draw on or make withdrawals from or access such account, box or arrangement.

#### **4.8 Business since 31 January 2007**

In the period between 31 January 2007 and the Closing Date, each of the Acquired Companies:

- (a) has conducted its business in the ordinary course and has not made any unusual Contracts, Contract changes or commitments, and has not sold, assigned or transferred any material tangible or intangible assets;
- (b) has not incurred any obligation or liability (absolute or contingent), except current liabilities incurred in the ordinary course of business, and has not mortgaged, pledged or subjected to an Encumbrance any of its assets, whether tangible or intangible;
- (c) has not incurred any material interruption or material alteration in the condition, performance, nature, scope or manner of its business or assets; and
- (d) has continued to prepare its management financial statements in a manner consistent with prior practice and has not decided or implemented any change in the applicable accounting standards and/or principles.

#### **4.9 Permits and Authorisations**

Each of the Acquired Companies and HCHK has all the permits and authorisations which are necessary to carry on its business as presently conducted. The execution of this Agreement and the consummation of the transactions contemplated herein will not lead to the automatic termination of any such permits and authorisations and will not give rise to any right of any competent authorities or other third parties to terminate such permits and authorisations.

#### **4.10 Claims and Litigation; Compliance with Laws**

There are no (and since 31 January 2004 there have not been any) pending (and, so far as Management Sellers are aware, there are no, and since 31 January 2007 there have not been any, threatened) actions, suits or proceedings against any of the Acquired Companies or any other Person whose liability any of the Acquired Companies has or may have retained or assumed, either contractually or by operation of any Legal Requirement, either in court or before any arbitral tribunal, administrative board, agency, or commission or other Governmental Body in any jurisdiction. So far as Management Sellers are aware, no event has occurred, and no claim, dispute or other condition or circumstance exists, that will or could reasonably be expected to, give rise to or serve as a basis for the commencement of any such action, suit or proceeding.

There is no order, injunction, judgment or decree by any court or Governmental Body against any of the Acquired Companies or any of the assets owned or, so far as Management Sellers are aware, used by any of the Acquired Companies.

Each of the Acquired Companies is, and each of the Acquired Companies has since 31 January 2004 been, in compliance in all material respects with each Legal Requirement that is applicable to it or to the conduct of its business or the ownership of its assets, including all Legal Requirements relating to employment and labor matters, antitrust and competition law matters, Tax matters, import/export matters and environmental matters. No event has occurred, and no

condition or circumstance exists, that will (with or without notice or lapse of time) constitute or result in a violation by any of the Acquired Companies of, or a failure on the part of any of the Acquired Companies to comply with, any Legal Requirement. Since 31 January 2004, none of the Acquired Companies has received any notice, no Management Seller has received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case from any Person regarding any actual or possible violation of, or failure to comply with, any Legal Requirement.

The representations set forth in the foregoing paragraphs of this Article 4.10 are also applicable to HCHK so far as Management Sellers are aware.

#### **4.11 Corporate Status**

No order has been made, resolution passed or meeting convened for the winding-up of any of the Acquired Companies or HCHK, and there are no proceedings under any applicable insolvency, reorganisation, or similar laws in any jurisdictions concerning any of the Acquired Companies or, so far as Management Sellers are aware, HCHK that can result in a winding-up or reorganisation of any of the Acquired Companies or HCHK, and no receiver, liquidator, trustee, administrator, custodian or similar official has been appointed in any jurisdiction in respect of the whole or any part of the business or assets of any of the Acquired Companies or, so far as Management Sellers are aware, HCHK.

#### **4.12 Intellectual Property; Products**

Schedule 7 accurately lists: (a) each item of Registered IP in which any of the Acquired Companies has or purports to have an ownership interest of any nature (whether exclusively, jointly with another Person or otherwise); (b) the jurisdiction in which such item of Registered IP has been registered or filed and the applicable registration or application number; and (c) any other Person that has an ownership interest in such item of Registered IP and the nature of such ownership interest.

The Acquired Companies own exclusively or, as may be set forth in the Disclosure Letter, together with the relevant Person designated therein, all right, title and interest to and in the Acquired Company IP (other than Intellectual Property Rights or Intellectual Property exclusively licensed to any of the Acquired Companies, as identified in Part 4.12 of the Disclosure Letter), free and clear of any Encumbrance. Without limiting the generality of the foregoing:

(a) any current employee, independent contractor and director of any of the Acquired Companies that has participated in the development of any Acquired Company IP (other than Intellectual Property Rights or Intellectual Property exclusively licensed to any of the Acquired Companies, as identified in Schedule 7) has executed an agreement that irrevocably assigns all right, title, and interest in and to such Acquired Company IP to an Acquired Company, and copies of all such agreements have been provided to Purchaser;



(b) no current or former employee, independent contractor or director of any of the Acquired Companies or of any affiliate of any of the Acquired Companies has any claim, right (whether or not currently exercisable) or interest to or in any Acquired Company IP, nor has any of the Acquired Companies received any notice, any Management Seller received any notice or other communication (whether written or otherwise) or any Management Seller become aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case alleging the existence of such claim, right, or interest; and

(c) no funding, facilities, or personnel of any Governmental Body or any college, university, or other educational institution were used, directly or indirectly, to develop or create, in whole or in part, any Acquired Company IP.

All Acquired Company IP is valid, subsisting and enforceable. All filings, payments and other actions required to be made or taken to maintain Registered IP described in the Disclosure Letter in full force and effect have been made or taken by the applicable deadline, except for that Registered IP that is expressly designated on the Disclosure Letter as having been abandoned, allowed to lapse or rejected. Other than as set forth in Schedule Z, no interference, opposition, reissue, re-examination, or other proceeding is pending or, so far as Management Sellers are aware, threatened, in which the scope, validity, or enforceability of any Acquired Company IP is being or could reasonably be expected to be contested or challenged.

The Acquired Companies have each taken all reasonable steps to maintain the confidentiality of and otherwise protect and enforce their rights in all proprietary information that the Acquired Companies hold, or purport to hold, as a trade secret.

So far as Management Sellers are aware, no Person has since 31 January 2004 infringed, misappropriated, or otherwise violated, and no Person is currently infringing, misappropriating or otherwise violating, any Acquired Company IP. No letter or other written or electronic correspondence has been sent or otherwise delivered by or to any of the Acquired Companies or any representative of any of the Acquired Companies regarding any actual, alleged or suspected infringement or misappropriation of any Acquired Company IP.

None of the Acquired Companies has ever infringed (directly, contributorily, by inducement or otherwise), misappropriated or otherwise violated any Intellectual Property Right of any other Person. No infringement, misappropriation, or similar claim or proceeding is pending or, so far as Management Sellers are aware, threatened against any Acquired Company (or against any other Person who is or may be entitled to be indemnified, defended, held harmless, or reimbursed by an Acquired Company) with respect to such claim or proceeding. None of the Acquired Companies has since 31 January 2004 received any notice, no Management Seller has since 31 January 2004 received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company since 31 January 2004, in any case relating to any actual, alleged, or suspected infringement, misappropriation, or violation by any Acquired Company or any Company Product of any Intellectual Property Rights of another Person, including any notice or communication suggesting or offering that an Acquired Company obtain a license to any Intellectual Property Right of another Person. Each Acquired Company has all of the Intellectual Property Rights necessary for the conduct of its business as currently conducted.

The Acquired Companies have no obligation to pay any license fees, royalties, or other consideration to any third party in consideration of the Acquired Companies' use or other exploitation of any Acquired Company IP.

Neither the execution, delivery, or performance of this Agreement nor the consummation of any of the transactions contemplated by this Agreement will, with or without notice or lapse of time, result in, or give any other Person the right or option to cause or declare: (a) a loss of, or Encumbrance on, any Acquired Company IP; (b) a breach of or default under any Acquired Company IP Contract; (c) the release, disclosure, or delivery of any Acquired Company IP by or to any escrow agent or other Person; or (d) the grant, assignment, or transfer to any other Person of any license or other right to interest under, to, or in any of the Acquired Company IP.

None of the Acquired Companies is or ever was a member or promoter of, a contributor to, or a participant in any industry standards body, technology consortium, joint development initiative, or similar organisation or arrangement that requires or obligates any Acquired Company to grant or offer to any other Person any license or right to any Acquired Company IP.

No Person has filed before any court or Governmental Body since 31 January 2004 any product liability claim against any Acquired Company in respect of any Acquired Company Product designed, developed, manufactured, marketed, sold, supplied, delivered, made available or installed by any of the Acquired Companies. None of the Acquired Companies has received any notice, no Management Seller has received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case from any Person in possession of any Acquired Company Product indicating the existence or potential existence of any defect in such Acquired Company Product or the prior repair thereof other than notices and communications relating to: (a) immaterial defects that can be cured without any material expense; or (b) defects which have been cured without any material expense.

#### **4.13 Taxes**

Each of the Acquired Companies has timely filed all tax returns for all Taxes required by all Legal Requirements to have been filed, and all such tax returns are complete and accurate and prepared in compliance with all applicable Legal Requirements.

None of the tax returns filed by any of the Acquired Companies is disputed by the tax authorities. So far as Management Sellers are aware, none of the Acquired Companies is presently the subject of any investigation, audit or other administrative proceeding in relation to Taxes.

Each of the Acquired Companies has paid in due time all Taxes which have become due up to (and including) the Closing Date, and there are no due and payable Taxes that remain unpaid as of the Closing Date. Each Acquired Company has established substantially adequate provisions for all Taxes that may be assessed or computed on the results, operations or transactions of such Acquired Company for all periods prior to the Signing Date, regardless of the financial period during which such Taxes may become due and payable, and such provisions are in accordance with applicable Legal Requirements and generally accepted accounting principles in Switzerland.

None of the Acquired Companies has distributed or caused to be distributed any hidden dividend, nor distributed or granted any other benefit to any Seller or any other Person which could lead to the imposition of any withholding taxes on dividends or constructive dividends.

The acquisition of the Shares by Purchaser will not give rise to any adverse Tax consequences for any of the Acquired Companies.

#### **4.14 Agreements with Third Parties**

Schedule 8 contains a complete and accurate list of each Acquired Company Contract:

(a) relating to the employment of, or the performance of services by, any employee of any Acquired Company with an annual base salary in excess of CHF 150,000, or any consultant or independent contractor of any Acquired Company in respect of services in an amount in excess of CHF 200,000;

(b) pursuant to which any of the Acquired Companies: (i) is or may become obligated to make any severance, termination or similar payment to any current or former employee or director, except for any such payment that is required to be made by the laws of Switzerland; or (ii) is or may become obligated to make any bonus or similar payment (other than bonus or similar payments in the ordinary course of business and consistent with past practice and the standard terms of employment) to any current or former employee or director;

(c) relating to the acquisition, transfer, development or sharing of any material Intellectual Property or Intellectual Property Right;

(d) pursuant to which any Intellectual Property Rights or Intellectual Property is licensed to any of the Acquired Companies (other than any non-customised software that: (A) is so licensed solely in executable or object code form pursuant to a nonexclusive software license; and (B) is used by the Acquired Companies solely for their internal business purposes);

(e) pursuant to which any Person has been granted any license under, or otherwise has received or acquired any right (whether or not currently exercisable) or interest in, any Acquired Company IP, other than Acquired Company Contracts providing for the sale of Acquired Company Products in the ordinary course of business;

(f) to which any Governmental Body is a party or under which any Governmental Body has any rights or obligations, or involving or benefiting any Governmental Body;

(g) creating or relating to any partnership or joint venture or any sharing of revenues, profits, losses, costs or liabilities;

(h) imposing any restriction on any of the Acquired Companies: (i) to compete with any other Person; (ii) to acquire any product or other asset or any services from any other Person, to sell any product or other asset or to perform any services for any other Person or to transact business or deal in any other manner with any other Person; (iii) to develop or distribute any technology; or (iv) to use, exploit, assert, or enforce any Acquired Company IP anywhere in the world;

(i) creating or involving any agency relationship, distribution arrangement or other reseller relationship (including any Contract in which another Person is appointed or authorised to act or serve as a sales representative for any of the Acquired Companies);

(j) involving any loan, guaranty, pledge, performance or completion bond or indemnity or surety arrangement;

(k) with a sole source supplier to any of the Acquired Companies; or

(l) that contemplates or involves: (i) the payment or delivery of cash or other consideration by or to any Acquired Company in an amount or having a value in excess of CHF 250,000 in the aggregate; or (ii) the performance of services by or for any Acquired Company having a value in excess of CHF 250,000 in the aggregate.

True, complete and accurate copies of such Acquired Company Contracts have been made available by Sellers to Purchaser in the data room (an index of which is attached as [Schedule 9](#) hereto).

None of the Acquired Companies is (or has since 30 September 1998 been) in default under, or in breach of, any Acquired Company Contracts and, as far as Management Sellers are aware, no other party to any Acquired Company Contract is (or has ever been) in default under, or in breach of, such Acquired Company Contract, except in any case for defaults or breaches that have been cured without any material expense. So far as Management Sellers are aware, no event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will result in a default under, or breach of, any Acquired Company Contract. Since 31 January 2004, none of the Acquired Companies has received any notice, no Management Seller has received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case regarding any actual violation or breach of, or default under, any Acquired Company Contract.

#### 4.15 Employment Matters

[Schedule 10](#) contains a complete and accurate list of all existing and already hired employees of each of the Acquired Companies, including all regular and temporary employees (“**Employees**”) as of 31 May 2007 and mentions the base salary, any other compensation payable (including housing allowances, compensation payable pursuant to bonus, deferred compensation or commission arrangements or other compensation), any promises made with respect to changes or additions to their compensation or benefits and applicable notice of termination for all such employees as well as a complete and accurate list of all deferred compensation, incentive compensation severance pay, termination pay, medical pension or other plan, program or agreement (collectively, the “**Plans**”) sponsored, maintained, contributed to or required to be contributed to by any of the Acquired Companies for the benefit of any Employee.

The terms of the employment agreements of all officers and employees of the Acquired Companies earning an annual base salary in excess of CHF 200,000, and the standard terms of the employment agreements of all other employees, have been disclosed to Purchaser, and there is no agreement or arrangement binding on any Acquired Company other than those disclosed to

Purchaser which would entitle any such employee of any Acquired Company to receive any payment or benefit or under which any such employee's rights would change as a direct consequence of the transaction contemplated in this Agreement (either alone or upon the occurrence of any additional or subsequent events).

During the two years preceding the Signing Date, there has not been any strike, work stoppage, lock out or overtime ban which has materially disrupted the business of any Acquired Company.

There are no strikes, work stoppages, lock outs or other similar actions pending or threatened between any of the Acquired Companies and any of the Employees; no labor union or other collective bargaining unit, and no works council or similar body, represents the Employees as a group in connection with their employment with any of the Acquired Companies; so far as Management Sellers are aware, no labor union or other collective bargaining unit, and no works council or similar body, represents any particular Employee in connection with such Employee's employment with any of the Acquired Companies.

None of the Employees is entitled to benefits or advantages which exceed those provided for by law or by the agreements referred to above. There are no undertakings made by any of the Acquired Companies to or for the benefit of any former employees or corporate officers that are still outstanding.

None of the Acquired Companies has undertaken to pay or grant any compensation or benefits to any Employee (including any corporate officer) or director as a result of the completion of the purchase of the Shares contemplated hereunder.

None of the Acquired Companies has made any commitment in connection with any collective dismissal or reorganisation which has not been performed in full, nor has any of the Acquired Companies made any commitment in connection with any future collective dismissal or reorganisation.

No executive or key employee employed by any of the Acquired Companies has declared his or her intention to resign within the three-month period preceding or following the Signing Date or has resigned during the three-month period preceding the Signing Date.

#### **4.16 Pensions**

All material terms and conditions of the Company's pension schemes have been disclosed to Purchaser, and all documents disclosed to Purchaser are true and complete copies of the relevant originals.

Each Acquired Company has paid in due time all contributions to any of the Acquired Companies' pension schemes which have become due up to (and including) the Closing Date, and there are no due and payable pension scheme contributions that remain unpaid as of the Closing Date.

#### **4.17 Real Estate**

The Company does not own, directly or indirectly, any real estate.

Management Sellers have disclosed to Purchaser true and complete copies of all lease agreements to which any Acquired Company is a party, and none of such lease agreements has been varied or terminated. No Acquired Company is in breach of any of the terms of the lease agreements to which it is a party.

None of the Acquired Companies has received any notice, no Management Seller has received any notice or other communication (whether written or otherwise) and no Management Seller is aware of any communication, whether written or otherwise, to any employee of any Acquired Company, in any case from a Governmental Body or civic organisation that alleges that any Acquired Company is not in compliance with any Legal Requirement relating to pollution or protection of human health or the environment, and, so far as Management Sellers are aware, there are no circumstances that may prevent or interfere with such Acquired Company's compliance with any such Legal Requirement in the future.

#### **4.18 Ownership of Subsidiaries**

All of the Subsidiaries are disclosed in Schedule 14 and are owned in accordance with the information disclosed therein. No further capital, non-voting stock, convertible or exercisable securities, options, warrants or similar rights in any of the Subsidiaries have been, or will by the Closing Date be, created or issued or agreed to be issued.

The shares of the Subsidiaries are free and clear of all Encumbrances.

So far as Management Sellers are aware, no order has been made, resolution passed or meeting convened for the winding-up of any of the Subsidiaries and there are no proceedings under any applicable insolvency, reorganisation, or similar laws in any jurisdictions concerning the Subsidiaries that can result in a winding-up or reorganisation of any of the Subsidiaries, and no receiver, liquidator, trustee, administrator, custodian or similar official has been appointed in any jurisdiction in respect of the whole or any part of the business or assets of any of the Subsidiaries.

None of the Acquired Companies owns, beneficially or otherwise, any shares or other securities of or any direct or indirect equity interest in, or is obligated to make any future investment in or capital contribution to, any corporation, partnership, joint venture, firm or other enterprise or entity.

The Company's ownership of HCHK as set forth in the Disclosure Letter is free and clear of all Encumbrances. None of the Acquired Companies controls HCHK or has, or has guaranteed, any obligation or liability (whether accrued or contingent, matured or unmatured, due or to become due, whether or not required to be reflected in financial statements in accordance with the International Financial Reporting Standards issued by IAS, consistently applied) relating to HCHK.

#### **4.19 Insurance**

All current material insurance policies relating to the assets and business of the Company have been disclosed to Purchaser. All premiums due in respect of such policies have been paid and, so far as Management Sellers are aware, each of such policies is in full force and effect.

No material claims have been made under any current insurance policies during the two years preceding the Signing Date, and no such claim is outstanding.

#### **4.20 Brokers**

No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission from any Acquired Company in connection with the transactions contemplated by this Agreement.

#### **4.21 Accurate and Complete Disclosure**

To the best of Management Sellers' knowledge, all documents which have been provided to Purchaser by or on behalf of any of the Acquired Companies or Management Sellers are accurate and complete in all material respects. The information provided by Management Sellers and the Company in the Information Memorandum, management presentations, data room, Disclosure Letter and Schedules to this Agreement is accurate in all material respects and does not contain any material misrepresentation or material omission. The documents provided by Management Sellers and the Company in the data room (as listed on the index attached as Schedule 9 hereto) are complete in all material respects. Without limiting the generality of the foregoing, Management Sellers guarantee that, to the extent that only samples or standard agreements have been made available to Purchaser, the corresponding agreements which have been executed by the applicable Acquired Company do not deviate in any material respect from the samples or standard agreements provided to Purchaser.

### **ARTICLE 5**

#### **REPRESENTATIONS AND WARRANTIES OF FINANCIAL SELLERS AND SELLER 10**

Financial Sellers and Seller 10 shall give and assume exclusively the representations and warranties set out in this Article 5, to the exclusion of any further representations or warranties.

Financial Sellers and Seller 10 represent and warrant as of the Closing Date and, unless otherwise specified, the Signing Date as follows, it being specified that such representations and warranties are given severally and separately (as opposed to jointly and severally) by each of the Financial Sellers and Seller 10 in respect of their/his own position and of the Shares owned by them/him:

### **5.1 Authority and Enforceability**

This Agreement constitutes the legal, valid and binding obligations of each of the Financial Sellers and Seller 10, enforceable in accordance with its terms.

No proceedings are pending or threatened against any of the Financial Sellers or Seller 10 in respect of any seizure of assets, bankruptcy, appointment of a receiver or similar action, and neither Financial Sellers nor Seller 10 will become insolvent as a result of the completion of the transactions contemplated hereunder. Neither Financial Sellers nor Seller 10 are entering this Agreement with the intent to hinder, delay or defraud any third party creditor.

### **5.2 Ownership**

Each of the Financial Sellers and Seller 10 is the sole legal and beneficial owner of, and has good and valid title to, his corresponding number of Shares A or, as applicable, Shares B, as set out in Schedule 2 hereto, free and clear of all Encumbrances. Each of the Financial Sellers and Seller 10 has full right and capacity to enter into and to perform their/his obligations under this Agreement, including to transfer and sell such good and valid title to such Shares A or, as applicable, Shares B to Purchaser.

Upon delivery of the share certificates representing the relevant Shares A and, as applicable, Shares B held by each of the Financial Sellers and Seller 10, and subject to the payment of the Purchase Price by Purchaser, Purchaser will receive good and valid title to the Shares A and, as applicable, Shares B, free and clear of all Encumbrances.

Each of the Financial Sellers and Seller 10 has validly waived its or his statutory pre-emptive right to purchase the Shares sold by the other Sellers under this Agreement.

### **5.3 No Conflict**

The execution of this Agreement by each of the Financial Sellers and Seller 10 does not, and the consummation of the transactions contemplated hereby by each of the Financial Sellers and Seller 10 will not, directly or indirectly contravene, conflict with or violate (a) any applicable Legal Requirement order, writ, injunction, judgment or decree or (b) any Contract to which such Financial Seller or Seller 10 is a party or by which it/he is bound.

None of the Financial Sellers or Seller 10 was, is or will be required to make any filing with or give any notice to, or to obtain any consent or approval from, any Person in connection with: (a) the execution, delivery or performance of this Agreement; or (b) the consummation of any of the transactions contemplated by this Agreement.



**ARTICLE 6**  
**REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants as of the Closing Date and as of the Signing Date as follows:

**6.1 Authority and Enforceability**

This Agreement constitutes the legal, valid and binding obligations of Purchaser, enforceable in accordance with its terms.

No proceedings are pending or threatened against Purchaser in respect of any seizure of assets, bankruptcy, appointment of a receiver or similar action, and Purchaser will not become insolvent as a result of the completion of the transactions contemplated hereunder. Purchaser is not entering this Agreement with the intent to hinder, delay or defraud any third party creditor.

**6.2 Legal and Authorised Transactions**

The execution of this Agreement by Purchaser does not, and the consummation of the transactions contemplated hereby will not, violate any provision of the articles of association and by-laws of Purchaser or any agreement to which Purchaser is a party.

The execution of this Agreement by Purchaser and the consummation of the transactions contemplated hereby have been duly authorised by its Board of Directors.

**6.3 No Conflict**

The execution of this Agreement by Purchaser does not, and the consummation of the transactions contemplated hereby by Purchaser will not, directly or indirectly contravene, conflict with or violate (a) any applicable Legal Requirement order, writ, injunction, judgment or decree or (b) any Contract to which Purchaser is a party or by which it is bound.

With the exception of filings with, notices to and consents or approvals from applicable Governmental Bodies, Purchaser was not, is not and will not be required to make any filing with or give any notice to, or to obtain any consent or approval from, any Person in connection with: (a) the execution, delivery or performance of this Agreement; or (b) the consummation of any of the transactions contemplated by this Agreement.

**6.4 Financing**

Purchaser has all funds necessary to finance itself the payment of the entire Purchase Price, whether exclusively by its own means or with a partial external financing available to Purchaser, and Purchaser does not need to use in any manner whatsoever, for the financing of the acquisition contemplated hereunder, any funds or assets of the Company or any substance of the Company that is currently existing, not necessary for the business operations and available for distribution pursuant to applicable Swiss corporate law.

**ARTICLE 7**  
**REMEDIES**

**7.1 Notice of Claim**

Purchaser may make a claim (a "**Claim**"):

(a) against Management Sellers, in case of breach of: (i) any representations and/or warranties set out in Article 4 above (including the Specified Representations); or (ii) any of the covenants or undertakings contained in Article 8 below to the extent expressly agreed to or made by such Management Sellers; or

(b) against Financial Sellers and/or Seller 10, in case of breach of: (i) any representations and/or warranties set out in Article 5 above; or (ii) any of the covenants or undertakings contained in Article 8 below to the extent expressly agreed to or made by such Financial Sellers and/or Seller 10.

Similarly, Sellers may make a Claim against Purchaser under this Agreement in case of breach of: (i) any representations and/or warranties set out in Article 6 above; or (ii) any of the covenants or undertakings contained in Article 8 below to the extent expressly agreed to or made by Purchaser.

Purchaser shall make a Claim under Article 7.1(a) hereof by notifying the Sellers' Representative in writing and under Article 7.1(b) hereof by notifying the applicable Financial Seller or Seller 10 in writing and, in any case, describing in such notice (a "**Claim Notice**") the breach to which the Claim Notice relates and providing a non-binding, preliminary and good faith estimate of the amount of any damages or losses suffered by Purchaser or any of the Acquired Companies as a consequence of such breach (the "**Claimed Amount**"). A Seller shall make a Claim by notifying Purchaser in writing and describing in its claim the breach to which the claim relates and providing a non-binding, preliminary and good faith estimate of the amount of any damages or losses suffered by the relevant Seller(s) as a consequence of such breach. The notified Party(ies) shall then have the opportunity to remedy such breach within 60 days from receipt of the Claim.

Within 60 days after receipt of a Claim Notice with respect to a Claim under Article 7.1(a), the Sellers' Representative shall deliver to Purchaser a written response (the "**Response Notice**") in which the Sellers' Representative: (a) describes whether, and to what extent, the breach specified in such Claim Notice has been remedied by Sellers; and (b) either: (i) agrees that the full Claimed Amount (or if the full Claimed Amount exceeds the amount held in the Indemnity Escrow Account, then the entire amount held in the Indemnity Escrow Account) may be released from the Indemnity Escrow Account to Purchaser; (ii) agrees that part, but not all, of the Claimed Amount may be released from the Indemnity Escrow Account to Purchaser; or (iii) indicates that no part of the Claimed Amount may be released from the Indemnity Escrow Account to Purchaser. If the Sellers' Representative agrees that any part of the Claimed Amount is to be released from the Indemnity Escrow Account, the Seller's Representative shall promptly instruct the Indemnity Escrow Agent to release such amount to Purchaser. If the Response Notice is delivered in accordance with clause "(b)(ii)" or "(b)(iii)" of the preceding sentence, the Response Notice shall also contain a brief description in reasonable detail of the facts and circumstances

supporting the Sellers' Representative's claim that only a portion or no part of the Claimed Amount may be released from the Indemnity Escrow Account, as the case may be. The contested portion of any Claim shall be resolved in accordance with Article 12.2. Any disputes with respect to any Claims against any Financial Seller, Seller 10 or Purchaser shall be resolved in accordance with Article 12.2.

The Parties specifically agree to exclude the application of Article 201 of the Swiss Code of Obligations (Notification of Defects).

## 7.2 Consequences of Breach

In case of a breach of a representation, warranty, covenant or undertaking by any Party(ies) that is not fully remedied within the 60-day period referred to in Article 7.1 above, the breaching Party(ies) shall have an obligation to fully indemnify the Party(ies) making the applicable Claim for the damage or loss incurred by such Party(ies) making the applicable Claim (or, in the case Purchaser makes a Claim, for the damage or loss incurred by Purchaser or any of the Acquired Companies) as a result of such breach (such damage or loss: (a) being computed as the amount by which the actual situation differs from the situation that would have prevailed in the absence of such breach; and (b) to include, among others, as the case may be: (i) lost profits; (ii) reduction in price; and (iii) other damage or loss caused by such breach), subject to the limitations set out in Article 7.4 below.

In computing the amount of the damage or loss, any insurance proceeds paid in full or partial coverage of such damage and any increase in insurance costs and payment of deductibles, as well as the net tax impact that such a loss or damage or such indemnification payment may have on the financial condition of the Company or the Party(ies) concerned, e.g. by way of the tax deduction which the relevant Company or the Party(ies) may benefit from due to the occurrence of the damage or by way of income recognition, shall be taken into consideration (it being understood that: (a) in no event shall Purchaser or any Acquired Company be required to make a claim under any insurance policy prior to making a claim against the Indemnity Escrow Account or any Seller in respect of any matter for which indemnification might be available hereunder; and (b) the reservation in clause "(a)" of this sentence does not relieve Purchaser or the Acquired Companies from the duty of making a claim under a relevant insurance policy of an Acquired Company to the extent that: (i) such insurance policy was in effect as of or prior to the Closing; and (ii) the conditions to recovery under such policy are met).

If any amount is paid by one Party to the other Party(ies) pursuant to this Article 7 in respect of any breach of representation or warranty, then to the extent that the indemnified Party(ies) later recover(s) in respect of such matter any amount from a third party (other than insurance proceeds) which, when added to the indemnification payment received pursuant to this Article 7, exceeds the amount of the damage or loss (calculated in accordance with the foregoing paragraphs of this Article 7.2), the indemnified Party(ies) will promptly pay to the other Party(ies) the amount by which such excess exceeds all costs incurred by the indemnified Party(ies) in recovering such amounts from such third party. Purchaser will, upon request of the Sellers' Representative, deliver to the Sellers' Representative, and the Sellers' Representative will, upon request of Purchaser, cause to be delivered to Purchaser, copies of all relevant and material correspondence with the third party from whom such recovery was obtained, in each

case so long as: (a) the Sellers' Representative or Purchaser, as the case may be, agrees to treat such information as confidential; and (b) the Sellers' Representative or Purchaser, as the case may be, is not prohibited by such third party or by any Governmental Body from disclosing such information.

### **7.3 Term of Warranties and Representations**

Except with respect to a Specified Representation, a Claim made by Purchaser pursuant to Article 7.1(a)(i) or a Claim made by a Seller against Purchaser pursuant to Article 7.1 may be validly made only until the date which is the first anniversary of the Closing Date (it being understood that a Claim made prior to the first anniversary of the Closing Date shall survive until such time as such Claim is fully and finally resolved).

A Claim made with respect to the Specified Representations set forth in Articles 4.1, 4.2 and 4.5 and in the fourth paragraph of Article 4.7 pursuant to Article 7.1(a)(i) and a Claim made with respect to Article 7.1(b)(i) may be validly made only until the date which is the third anniversary of the Closing Date (it being understood that such a Claim made prior to the third anniversary of the Closing Date shall survive until such time as such Claim is fully and finally resolved).

A Claim made pursuant to Article 7.1(a)(i) with respect to the Specified Representations set forth in Article 4.13 may be validly made only until the date which is the expiration date of the statute of limitation for claims in respect of Taxes (it being understood that such a Claim made prior to this expiration date shall survive until such time as such Claim is fully and finally resolved).

A Claim made pursuant to Article 7.1(a)(ii) or Article 7.1(b)(ii) may be validly made at any time following the Closing Date (it being understood that nothing in this sentence shall be deemed to constitute an extension of any specific duration of any relevant covenant set forth in the respective provisions of Article 8).

The Parties specifically agree that this section replaces and excludes Articles 201 (Notification of Defects) and 210 (Statute of Limitation) of the Swiss Code of Obligations.

### **7.4 Limitations of Liability**

#### *7.4.1 In General*

The relevant Seller(s) shall not be liable for, and Purchaser shall not be entitled to bring, any Claim under or in connection with this Agreement if and to the extent that:

- (a) the matter to which the Claim relates was disclosed in the Disclosure Letter (not including by virtue of any general references to the data room) or in the Schedules to this Agreement; or
- (b) the Claim results from or is increased by the passing of, or any change in, after the Closing Date, any Legal Requirement of any Governmental Body.

Except as specified in the preceding sentence, the representations and warranties made by Sellers, the covenants and undertakings of Sellers, and the rights and remedies that may be

exercised by Purchaser, shall not be limited or otherwise affected by or as a result of any information furnished to, or any investigation made by or knowledge of, Purchaser.

The Parties agree that this section replaces and excludes Article 200 of the Swiss Code of Obligations (Defects known to the Buyer).

#### *7.4.2 De Minimis Amounts*

Except with respect to the Specified Representations, none of the relevant Management Sellers shall be liable for, and Purchaser shall not be entitled to bring, any Claim pursuant to Article 7.1(a)(i) unless:

(a) the aggregate amount of all damages or losses incurred by Purchaser or any of the Acquired Companies in connection with breaches of the representations and warranties referred to in Article 7.1(a)(i) exceeds CHF 500,000 or its equivalent in any other currency; and

(b) the amount of the specific item of damage or loss incurred by Purchaser or any of the Acquired Companies in connection with a particular breach of a representation and warranty (and/or series of representations and warranties relating to the same underlying facts or circumstances) referred to in Article 7.1(a)(i) exceeds CHF 10,000.

#### *7.4.3 Cap of Liability*

Purchaser's aggregate Claims against any of the Sellers shall be limited as follows:

(a) subject to clause "(b)" of this sentence with respect to the Specified Representations (other than the representation contained in the fourth paragraph of Article 4.7), Purchaser's sole monetary recourse for Claims made pursuant to Article 7.1(a)(i) shall be to the Indemnity Escrow Account; and

(b) the maximum liability of any Management Seller for Claims made with respect to the Specified Representations (other than the representation contained in the fourth paragraph of Article 4.7) and of any Financial Seller and Seller 10 for Claims made pursuant to Article 7.1(b)(i) shall correspond, in respect of each liable Seller, to 100% of the part of the Purchase Price received by such Seller.

For the avoidance of doubt, the Parties agree that there is no liability cap with respect to breaches of covenants or undertakings contained in this Agreement.

#### **7.5 Procedure with Third Parties and Authorities**

If any authorities or other third parties raise claims against Purchaser or any Acquired Company and such claims might give rise to a Claim by Purchaser or if the Company in connection with a breach of any representation, warranty, covenant or undertaking has to enforce any rights or claims against authorities or other third parties, such claims (and any related) proceedings and/or negotiations, shall, at Purchaser's option, be controlled by Purchaser. Purchaser shall keep the Sellers' Representative reasonably informed as to the status of (and any material developments

in) such claims, proceedings and/or negotiations that are controlled by Purchaser. Purchaser shall have the right to settle, adjust or compromise such claim, proceeding and/or negotiation without the consent of any other Person; *provided, however*, that: (a) if Purchaser intends to seek indemnification hereunder with respect to such claim, proceeding or negotiation, Purchaser shall consult with the Sellers' Representative prior to effecting any such settlement, adjustment or compromise; and (b) if Purchaser settles, adjusts or compromises any such claim, proceeding and/or negotiation without the consent of the Sellers' Representative, such settlement, adjustment or compromise shall not be conclusive evidence of the amount of losses or damages incurred by Purchaser in connection with such claim, proceeding or negotiation (it being understood that: (i) if Purchaser seeks indemnification from Sellers with respect to such claim, proceeding or negotiation, any arbitrator(s) selected to resolve a dispute relating to the amount, if any, of damage or loss due to Purchaser in connection with such indemnification claim shall consider all evidence presented by the Parties, including evidence relating to the quality and intensity with which the defense of such claim, proceeding or negotiation was conducted and whether the conduct of such defense was affected in any way by Purchaser's existing or anticipated relationship with the third-party claimant; and (ii) if Purchaser requests that the Sellers' Representative consent to a settlement, adjustment or compromise, the Sellers' Representative shall not unreasonably withhold or delay such consent).

#### **7.6 Fraud**

The Parties specifically agree that Article 199 (Garantie Exclue) of the Swiss Code of Obligations applies and that the limitations contained in this Article 7 shall not apply in the case of fraud as contemplated by said Article 199.

### **ARTICLE 8 COVENANTS**

#### **8.1 Confidentiality and Public Statements**

Subject to the last sentence of the immediately following paragraph, Sellers and the Sellers' Representative will keep, and will cause their advisers and employees to keep, the terms of this Agreement strictly confidential, except as otherwise required by applicable law, by any applicable stock exchange regulations and/or by any competent authority; *provided, however*, that the representative of Financial Sellers shall be authorised to provide relevant information regarding the terms of this Agreement to the beneficiaries of Financial Sellers as long as such beneficiaries are informed of the provisions of this Article 8.1 and agree to abide by the terms hereof with respect to such information.

The Parties shall agree on the contents of the initial public announcement to be made with respect to the transaction and the object contemplated by this Agreement. Purchaser shall consult with the Sellers' Representative regarding the contents of any public announcement made by Purchaser with respect to the transaction and the object contemplated by this Agreement. Notwithstanding anything to the contrary contained in this Agreement: (a) Purchaser shall not be required to consult with the Sellers' Representative or Sellers regarding

any disclosure in any filings made by Purchaser with the United States Securities and Exchange Commission; and (b) neither Party shall be required to obtain the consent of, or to consult with, any other Person with respect to any disclosure relating to the transaction and the object contemplated by this Agreement if (and only to the extent that) such disclosure is not more expansive than or inconsistent with prior disclosures made in accordance with this Article 8.1.

On and at all times after the Closing Date, each Seller shall keep strictly confidential, and shall not use or disclose to any other Person, any non-public document or other information in such Seller's possession that relates directly or indirectly to the business of any of the Acquired Companies.

The covenants of the Parties set forth in the first two paragraphs of this Article 8.1 shall be valid and enforceable for a period of three years after the Closing Date.

#### **8.2 Covenant not to Compete**

Each Management Seller undertakes not to engage or participate, and not to be or become an officer, director, shareholder (except for a passive shareholding not exceeding 5% in a publicly listed company), owner, employee, representative, consultant or advisor of, for or to any Person that engages or participates, whether directly or indirectly, in any activities that may be competing with or harmful to the business that is conducted by the Acquired Companies (including the product roadmap in the current field of business), including launching or causing the launching of any products that may compete with the products that are being developed in the current field of business, manufactured and/or sold by the Acquired Companies, anywhere in the world.

Seller 10 undertakes not to engage or participate, and not to be or become an officer, director, shareholder (except for a passive shareholding not exceeding 5% in a publicly listed company), owner, employee, representative, consultant or advisor of, for or to any Person that engages or participates, whether directly or indirectly, in any activities that may be competing with or harmful to the business that is currently conducted by the Acquired Companies (including the product roadmap in the current field of business), including launching or causing the launching of any products that may compete with the products that are currently being developed in the current field of business, manufactured and/or sold by the Acquired Companies, anywhere in the world.

Each Management Seller and Seller 10 undertakes not to: (a) hire any individual who is (or was) an employee of any of the Acquired Companies at any time from the date hereof through the Closing Date; (b) hire any individual who is (or was) a consultant or independent contractor of any of the Acquired Companies at any time from the date hereof through the Closing Date to the extent that such hiring will interfere in any material respect with, or will have an adverse impact in any material respect on, the business of any of the Acquired Companies; (c) directly or indirectly, personally or through others, encourage, induce, attempt to induce, solicit or attempt to solicit (on such Seller's own behalf or on behalf of any other Person) any such individual to leave his or her employment, consulting or independent contractor relationship with any of the Acquired Companies; (d) directly or indirectly, personally or through others, interfere or attempt to interfere with the relationship of any of the Acquired Companies with any Person that: (i) is a

customer (or, based upon preliminary or other negotiations between an Acquired Company and such Person prior to the Closing, is expected to become a customer) of any of the Acquired Companies; or (ii) has a business relationship (or, based upon preliminary or other negotiations between an Acquired Company and such Person prior to the Closing, is expected to have a business relationship) with any of the Acquired Companies; or (e) intentionally libel, slander or disparage Purchaser or any of Purchaser's affiliates (including the Acquired Companies) in any manner that is or (or could reasonably be expected to be) harmful to Purchaser or any such affiliate or to the business, business reputation or personal reputation of Purchaser or any such affiliate.

Financial Sellers shall ensure that no current employee or representative of Montagu Private Equity LLP (or any of its affiliates) that is or has been an employee or director of any Acquired Company directly or indirectly takes (or requests, advises or causes any other Person to take) any of the actions described in clauses "(a)" through "(e)" of the immediately preceding paragraph.

The covenants of Sellers set out in this Article 8.2 shall be valid and enforceable for a period of three years after the Closing Date.

### **8.3 Conduct of Business**

Management Sellers shall secure that, from the Signing Date until the Closing Date:

(a) each of the Acquired Companies conducts its business and operations in the ordinary course and consistent with past practice and uses reasonable efforts to preserve intact its current business organisation, keep available the services of its current officers and employees and maintain its relations and good will with all suppliers, customers, landlords, creditors, employees and other Persons having business relationships with such Acquired Company;

(b) no action and/or decision (in particular regarding investments, disposals, employment of personnel and/or appointment of agents) which could have a material effect on the Acquired Companies' business, assets, liabilities or financial situation be taken without prior written approval of Purchaser (which shall not be unreasonably withheld or delayed);

(c) the Acquired Companies do not sell, transfer or otherwise dispose of assets other than the sale of inventory in the ordinary course and consistent with past practice;

(d) the Acquired Companies do not enter into, or permit any of the assets owned or used by it to become bound by, any Contract other than in the ordinary course and consistent with past practice or amend or prematurely terminate, or waive any material right or remedy under, any Contract to which it is a party;

(e) the Acquired Companies do not incur or assume any new debt or liability or subject any of their properties or assets to any new lien other than in the ordinary course and consistent with past practice;

(f) none of the Acquired Companies declares, accrues, sets aside or pays any dividend or makes any other distribution in respect of any shares or other securities, or repurchase, redeems or otherwise reacquires any shares or other securities;



- (g)** none of the Acquired Companies sells, issues or authorises the issuance of: (i) any shares or other security; (ii) any option or right to acquire any shares (or cash based on the value of shares) or other security; or (iii) any instrument convertible into or exchangeable for any shares (or cash based on the value of shares) or other security;
- (h)** none of the Acquired Companies amends or permits the adoption of any amendment to such Acquired Company's organisational documents, or effects or permits such Acquired Company to become a party to any acquisition transaction, recapitalisation, reclassification of shares, stock split, reverse stock split or similar transaction;
- (i)** none of the Acquired Companies forms any subsidiary or acquires any equity interest or other interest in any other Person;
- (j)** none of the Acquired Companies makes, without prior written approval of Purchaser (which shall not be unreasonably withheld or delayed), any capital expenditure, except for (i) budgeted capital expenditures in the range of CHF 750,000 to be made in connection with the current expansion plans of the Company and/or (ii) capital expenditures that, when added to all other capital expenditures made on behalf of the Acquired Companies, from the Signing Date until the Closing Date do not exceed CHF 500,000;
- (k)** none of the Acquired Companies lends money to any Person (except that each of the Acquired Companies may make routine travel advances and salary advances — covered by the relevant employee's salary entitlement — to current employees of such Acquired Company, and usual advance payments to suppliers to cover purchase of materials, all in the ordinary course of business consistent with past practices);
- (l)** none of the Acquired Companies: (i) changes the collective status of its employees; (ii) establishes, adopts, amends or terminates any Plan; (iii) pays any bonus or makes any profit-sharing payment, cash incentive payment or similar payment, other than commissions paid in the ordinary course of business and consistent with past practices; (iv) increases the amount of the wages, salary, commissions, fringe benefits or other compensation (including equity-based compensation, whether payable in cash or otherwise) or remuneration payable to any of its directors, officers or employees; or (v) hires or makes an offer to hire any new employee with an annual base salary in excess of CHF 100,000 without prior written approval of Purchaser (which shall not be unreasonably withheld or delayed);
- (m)** none of the Acquired Companies changes any of its methods of accounting or accounting practices in any material respect;
- (n)** none of the Acquired Companies makes any Tax election;
- (o)** none of the Acquired Companies commences or settles any legal proceeding without prior written approval of Purchaser (which shall not be unreasonably withheld or delayed); and
- (p)** none of the Acquired Companies shall agree or commit to take any of the actions described in clauses "(c)" through "(o)" above.

Sellers shall inform Purchaser as soon as possible of any circumstances of which any Sellers become aware during the period from the Signing Date through the Closing Date, which would render any of the representations and/or warranties contained in Article 4 or Article 5 incomplete or incorrect.

#### **8.4 Access and Investigation**

During the period from the Signing Date through the Closing Date, upon reasonable advance notice, Management Sellers shall cause the Company to provide Purchaser with reasonable access to the Acquired Companies' personnel and assets and to all existing books, records, Tax returns, work papers and other documents and information relating to the Acquired Companies, in each case for reasonable purposes, including preparing for integration and for the purpose of reviewing and understanding the financial performance and condition of the Acquired Companies. Purchaser shall conduct the activities referred to in this Article 8.4 in a manner that will not interfere in any material respect with or disrupt in any material respect the business of the Acquired Companies.

#### **8.5 Reasonable Efforts**

Each Party shall use all reasonable efforts to file, and Management Sellers shall cause the Company to file, as soon as practicable after the Signing Date, all notices, reports and other documents required to be filed by such Party with any Governmental Body with respect to the transactions contemplated by this Agreement, and to submit promptly any additional information requested by any such Governmental Body.

The Parties shall, and Management Sellers shall cause the Company to, respond as promptly as practicable to any inquiries or requests received from any Governmental Body for additional information or documentation and promptly inform the other Parties of any communication to or from any Governmental Body regarding the transactions contemplated by this Agreement. Except as may be prohibited by any Governmental Body or by any Legal Requirement, each Seller shall, to the extent that any of the items in clauses "(a)" through "(d)" of this sentence are applicable to such Seller: (a) consult with Purchaser prior to taking a position with respect to any such filing; (b) permit Purchaser to review and discuss in advance, and consider in good faith the views of Purchaser in connection with, any analyses, appearances, presentations, memoranda, briefs, white papers, arguments, opinions and proposals before making or submitting any of the foregoing to any Governmental Body by or on behalf of any Seller in connection with any Legal Proceeding related to this Agreement or the transactions contemplated hereby; (c) coordinate with Purchaser in preparing and exchanging such information; and (d) promptly provide Purchaser (and its counsel) with copies of all filings, notices, analyses, presentations, memoranda, briefs, opinions, proposals and other submissions made or submitted by such Seller with or to any Governmental Body related solely to this Agreement or the transactions contemplated hereby.

The Parties shall use commercially reasonable efforts to take, or cause to be taken, all actions necessary to consummate the transactions contemplated by this Agreement.

### **8.6 Merger Clearance**

Provided that Sellers comply with Article 8.5 and with the next sentence in this Article 8.6, the merger clearance filings referred to in Articles 9.1, 9.2 and 9.3 shall be made by Purchaser as soon as practicable (and, subject to the proviso at the beginning of this sentence, in any event within ten days) after the Signing Date (or the next business day if said 10<sup>th</sup> day is not a business day in the applicable jurisdiction). In order to ensure that the relevant conditions precedent are fulfilled as soon as reasonably practicable, Sellers undertake to provide Purchaser promptly with all reasonable assistance and information that is requested by Purchaser in order to obtain merger control related clearance.

Purchaser shall: (i) promptly provide the Sellers' Representative with copies of all material relevant correspondence, documents or other communications received by Purchaser from, or sent by Purchaser to, the German Federal Cartel Office ("FCO") with respect to the transaction contemplated by this Agreement, with the exception of correspondence, documents or other communications (or portions thereof) that Purchaser determines in good faith contain sensitive information of Purchaser or its affiliates, which correspondence, documents or other communications need not be provided to the Sellers' Representative; (ii) inform the Sellers' Representative of any meetings proposed between the FCO and Purchaser and, except to the extent prohibited by the FCO, give Sellers the opportunity to attend such meetings with the authorities; and (iii) incur the costs in connection with the filing of the transaction with the FCO (excluding the Sellers' own costs).

Purchaser must notify the Sellers' Representative of the satisfaction of either of the conditions precedent set forth in Article 9.1, Article 9.2 or Article 9.3 within two days of Purchaser becoming aware that such condition has been satisfied.

Notwithstanding anything to the contrary contained in this Article or elsewhere in this Agreement, neither Purchaser nor any of its affiliates shall have any obligation under this Agreement: (a) to divest or agree to divest (or cause any of its subsidiaries or any of the Acquired Companies to divest or agree to divest) any of its respective businesses, product lines or assets, or to take or agree to take (or cause any of its subsidiaries or any of the Acquired Companies to take or agree to take) any other action or agree (or cause any of its subsidiaries or any of the Acquired Companies to agree) to any limitation or restriction on any of its respective businesses, product lines or assets; or (b) to contest any action taken or proceeding instigated by any Governmental Body relating to the transactions contemplated by this Agreement.

### **8.7 No Distribution of Substance**

Purchaser undertakes not to accomplish, whether directly or indirectly through the Company, any act or other transaction that could qualify as a partial indirect liquidation within the meaning of the applicable circular letter and practice of the competent tax authorities, including (without limitation) any distribution of a dividend by the Company, any merger of the Company with Purchaser or any affiliate of Purchaser, any pledge of assets of the Company as collateral for a financing granted to Purchaser or any affiliate of Purchaser, for a period of five years from the Closing Date, in any case solely to the extent that any such act or other transaction would result in an adverse tax liability to any Seller.

### 8.8 Ordinary Shareholders' Meeting of the Company

Purchaser undertakes to hold the ordinary shareholders' meeting of the Company no later than 31 July 2008 and to grant full and complete discharge, until and including the Closing Date, to the resigning directors of the Company in accordance with Article 3.4 above.

## ARTICLE 9 CONDITIONS PRECEDENT

Subject to the termination rights of the Parties set forth in Article 10, the obligations of Purchaser to consummate the transaction contemplated by this Agreement are subject to the satisfaction (or waiver by Purchaser), at or prior to the Closing, of each of the following conditions:

### 9.1 German Merger Clearance

Any of the following alternative conditions is satisfied or waived by Purchaser:

- (a) during the initial investigation (Vorprüfverfahren) the FCO has notified Purchaser or Sellers that the merger control procedure has been terminated, either because the requirements for a prohibition of the transaction as laid down in section 36(1) of the Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen, "GWB") are not fulfilled or because the transaction does not constitute a notifiable transaction; or
- (b) the waiting period of one month from submission of a complete notification to the FCO has expired without the Parties having been notified by the FCO pursuant to section 40(1) GWB that it intends to enter into an in-depth investigation (Hauptprüfverfahren) of the transaction; or
- (c) the FCO has issued a decision in accordance with section 40(2) sentence 1 GWB to the effect that the transaction has been unconditionally cleared; or
- (d) if the FCO has notified the Parties that it will enter into an in-depth investigation (Hauptprüfverfahren), the waiting period of four months from submission of a complete notification to the FCO, or an extended waiting period (if agreed upon with the notifying parties), has expired pursuant to section 40(2) GWB without the FCO having issued a prohibition order; or
- (e) if the FCO decides to refer the case to the European Commission under Article 22(1) of the EC Merger Regulation No 139/2004, the European Commission has granted clearance either unconditionally or in terms satisfactory to Purchaser or until any applicable waiting periods in respect thereof have expired.

## 9.2 China Merger Clearance

Any one of the following alternative conditions is satisfied or waived by Purchaser:

(a) the 30 business day waiting period from the submission of the acquisition notification to the Ministry of Commerce (“**MOFCOM**”) and State-owned Assets Supervision and Administration Commission, State Administration of Taxation, State Administration for Industry and Commerce (“**SAIC**”) of the Peoples Republic of China has expired without any notification of further investigation from MOFCOM or the SAIC; or

(b) a 90 business day waiting period from the submission of the acquisition notification, which is triggered when either MOFCOM or the SAIC notifies the parties that it will extend the 30 business day waiting period to conduct an in-depth investigation of the transaction contemplated by this Agreement, has expired without either MOFCOM or SAIC issuing a prohibition order, additional requirements or conditional exemptions.

## 9.3 Spain Merger Clearance

Any one of the following alternative conditions is satisfied or waived by Purchaser:

(a) the one-month waiting period from the submission of the acquisition notification to the Servicio de Defensa de la Competencia (“**SDC**”) has expired, on the timetable noted by the SDC, without any notification of a reference of the transaction to the Tribunal de Defensa de la Competencia (“**TDC**”); for the purposes of fulfilling this condition, the accounting of the one-month period shall be deemed suspended in those circumstances where Law 16/1989, on Competition, and its implementing regulations so foresee; or

(b) upon a reference to the TDC, the three-month period has expired during which time the TDC will have issued its report to the Minister of the Economy and, following its recommendation or inaction, no decision is issued by the Spanish Government to prohibit the transaction or to impose conditions for its approval; for the purposes of fulfilling this condition, the accounting of the three-month period shall be deemed suspended in those circumstances where Law 16/1989, on Competition, and its implementing regulations so foresee.

## 9.4 No Restraints

No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the transactions contemplated by this Agreement shall have been issued by any court of competent jurisdiction and remain in effect, and there shall not be any Legal Requirement enacted or applicable to the transactions contemplated by this Agreement that makes consummation of such transactions illegal.

## 9.5 No Legal Proceedings

No Governmental Body shall have commenced or threatened to commence any Legal Proceeding: (a) challenging any of the transactions contemplated by this Agreement or seeking the recovery of damages in connection with any of the transactions contemplated by this Agreement; (b) seeking to prohibit or limit the exercise by Purchaser of any material right

pertaining to its ownership of stock of any of the Acquired Companies; (c) that may have the effect of preventing, delaying, making illegal or otherwise interfering with any of the transactions contemplated by this Agreement; or (d) seeking to compel any of the Acquired Companies, Purchaser or any affiliate of Purchaser to dispose of or hold separate any material assets as a result of any of the transactions contemplated by this Agreement.

**9.6 Accuracy of Representations.**

Each of the representations and warranties made by Sellers in this Agreement (other than the representations and warranties contained in Articles 4.2, 4.5 and 5.2): (a) shall have been accurate in all material respects as of the Signing Date; and (b) shall be accurate in all respects as of the Closing as if made on and as of the Closing (except for such representations and warranties which address matters only as of a particular time before or after the Signing Date, which shall have been accurate in all respects as of such particular time) (it being understood that, for purposes of this clause “(b),” any inaccuracies in such representations and warranties will be disregarded if the circumstances giving rise to such inaccuracies (considered collectively) have not had (and are not reasonably likely to have) a material adverse effect as such term is defined in Article 9.8); *provided, however*, that, for purposes of determining the accuracy of such representations and warranties under clause “(a)” and “(b)” of this sentence any update of or modification to the Disclosure Letter made or purported to have been made after the Signing Date shall be disregarded.

Each of the representations and warranties made by Sellers in Articles 4.2, 4.5 and 5.2 shall have been accurate in all respects as of the Signing Date and shall be accurate in all respects as of the Closing as if made on and as of the Closing (except for such representations and warranties which address matters only as of a particular time before or after the Signing Date, which shall have been accurate in all respects as of such particular time); *provided, however*, that, for purposes of determining the accuracy of such representations and warranties any update of or modification to the Disclosure Letter made or purported to have been made after the Signing Date shall be disregarded.

**9.7 Performance of Covenants.**

All of the covenants and obligations that Sellers are required to comply with or to perform at or prior to the Closing (other than the covenants contained in Article 8.4) shall have been complied with and performed in all material respects.

**9.8 No Material Adverse Effect.**

Between the Signing Date and the Closing Date, no event or events shall have occurred or circumstance or circumstances shall exist that have had (or are reasonably likely to have), individually or in aggregate, a material adverse effect on the business, condition (financial or otherwise), operations or financial performance of the Acquired Companies taken as a whole. For these purposes, the following shall not constitute an event or circumstance that can have a material adverse effect:

(a) changes in general economic conditions (including changes in stock markets, interest rates, exchange rates, commodity prices or other general economic conditions);

(b) changes in conditions generally affecting the industry or industries in which the Acquired Companies carry on their businesses, including changes generally affecting the industry or industries in which the Acquired Companies carry on their businesses as a result of Government and/or inter-Governmental body announcements;

(c) changes in laws, regulations or accounting practices to the extent required by change in law or applicable accounting standards; or

(d) changes resulting from acts of war or terrorism or from fires, earthquakes or natural or other similar disasters;

it being understood that the cancellation of a material number of customer orders may be taken into account in determining whether a material adverse effect has occurred.

#### **9.9 Employee Matters.**

None of the Management Sellers (other than Seller 11) shall have ceased to be employed by, and Seller 11 shall not have ceased to be a director of, the Company. Neither of Seller 13 nor Seller 14 shall have expressed an intention to terminate his employment with an Acquired Company or Purchaser within eighteen months following the Closing. Seller 11 shall not have expressed an intention to terminate his mandate with the Company within six months following the Closing. Seller 12 shall not have expressed an intention to terminate his employment agreement and/or transition arrangement with an Acquired Company or Purchaser with effect prior to 31 December 2007. (It is understood that the tender by Seller 11 and Seller 12 of their resignation in accordance with the terms of this Agreement shall be disregarded for purposes of determining whether this condition is satisfied.)

### **ARTICLE 10**

#### **TERMINATION**

#### **10.1 Termination Events.**

This Agreement may be terminated prior to the Closing:

(a) by the mutual written consent of Purchaser and the Sellers' Representative;

(b) by Purchaser if the Closing has not taken place on or before 10:01 a.m. (Geneva time) on the Long-Stop Date (other than as a result of any failure on the part of Purchaser to comply with or perform any covenant or obligation of Purchaser set forth in this Agreement);

(c) by the Sellers' Representative if the Closing has not taken place on or before 10:01 a.m. (Geneva time) on the Long-Stop Date (other than as a result of any failure on the part

of any Seller to comply with or perform any covenant or obligation of any Seller set forth in this Agreement); or

(d) by Purchaser or the Sellers' Representative if: (i) a court of competent jurisdiction or other Governmental Body shall have issued a final and non-appealable order, decree or ruling, or shall have taken any other action, having the effect of permanently restraining, enjoining or otherwise prohibiting any of the transactions contemplated by this Agreement; or (ii) there shall be any Legal Requirement applicable to any of the transactions contemplated by this Agreement by any Governmental Body that would make consummation of any of such transactions illegal.

#### **10.2 Termination Procedures.**

If Purchaser or Sellers' Representative wishes to terminate this Agreement pursuant to Article 10.1, it/he shall deliver to the other a written notice stating that it/he is terminating this Agreement and setting forth a brief description of the basis on which this Agreement is being terminated.

#### **10.3 Effect of Termination.**

If this Agreement is terminated pursuant to Article 10.1, all further obligations of the Parties under this Agreement shall terminate; *provided, however*, that: (a) none of Sellers nor Purchaser shall be relieved of any obligation or liability arising from any prior willful breach by such party of any provision of this Agreement; (b) the Parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in Articles 11 and 12; and (c) each of the Parties shall, in all events, remain bound by and continue to be subject to Article 8.1.

### **ARTICLE 11** **MISCELLANEOUS**

#### **11.1 Costs and Taxes**

Any taxes or other charges which may become due in connection with the transfer of the Shares by Sellers to Purchaser under this Agreement shall be borne by Sellers.

Each Party shall bear the fees and expenses of its counsel and advisors (including, without limitation, notary and register fees and expenses and related lawyer's fees), it being understood that all fees and expenses: (a) relating to the transaction contemplated by this Agreement and the process leading up to such transaction, other than fees and expenses not in excess of CHF 160,000, shall be borne by Sellers; and (b) relating to the possible initial public offering of the shares of the Company, in an amount not in excess of CHF 900,000, shall be borne by the Company, while any fees and expenses relating to such initial public offering in excess of CHF 900,000 shall be borne by Sellers.

#### **11.2 Sellers' Representative**

Sellers appoint Martin Anderson as their agent for purposes of this Agreement (the "**Sellers' Representative**"), and Martin Anderson hereby accepts his appointment as the Sellers'



Representative. Purchaser shall be entitled to deal exclusively with the Sellers' Representative on all matters relating to this Agreement, and shall be entitled to rely conclusively (without further evidence of any kind whatsoever) on any document executed or purported to be executed on behalf of any Seller by the Sellers' Representative, and on any other action taken or purported to be taken on behalf of any Seller by the Sellers' Representative, as fully binding upon such Seller.

Sellers grant to the Sellers' Representative full authority to execute, deliver, acknowledge, certify and file on behalf of Sellers (in the name of any or all of Sellers or otherwise) any and all documents that the Sellers' Representative may, in his sole discretion, determine to be necessary, desirable or appropriate, in such forms and containing such provisions as the Sellers' Representative may, in his sole discretion, determine to be appropriate, in performing his duties as contemplated by this Article 11.2.

Sellers recognise and intend that the power of attorney granted in Article 11.2: (a) may be delegated by the Sellers' Representative; and (b) shall survive the death or incapacity of each of the Sellers.

If the Sellers' Representative shall die, become disabled or otherwise be unable to fulfill his responsibilities hereunder, Sellers shall, by consent of such Sellers that held at least a majority of the Shares immediately prior to the Closing, within 10 days after such death or disability, appoint a successor to the Sellers' Representative and immediately thereafter notify Purchaser of the identity of such successor. Any such successor shall succeed the Sellers' Representative as Sellers' Representative hereunder.

### 11.3 Notices

Any notice and other communication to be given by one Party to any other Party hereunder shall be in writing (including facsimile transmission) and shall be made to the following addresses, as applicable:

If to any Financial Seller:

Montagu Private Equity LLP  
Attn: Mr. Tom Chaloner  
2 More London Riverside  
London SE1 2AP  
UK  
Fax: +44 20 7336 9961

If to Mr. Hauser:

Mr. Charles Hauser  
Mont au source  
Loudwaterdrive, Rickmansworth  
WD3 4HJ Herts  
UK  
Fax: +41 22 366 16 36

With a copy to:

Cabinet Mayor  
Attn: Mr. Edouard Balser  
6, rue Eynard  
CH-1205 Geneva  
Fax: +41 22 318 58 12

If to Mr. Müller:

Mr. André Müller  
Sunnerainstrasse 8  
CH-6353 Weggis  
Fax: +41 22 707 98 01

If to Mr. Schneeberger:

Mr. Stefan Schneeberger  
Les Rochettes  
CH-1595 Faoug  
Fax: +41 22 707 98 01

If to Mr. Keith Anderson:

Mr. Keith Anderson  
252, route de la Conversion  
CH-1095 Lutry  
Fax: +41 22 707 98 01

If to Mr. Maréchal:

Mr. Pierre Maréchal  
22, chemin des Chenevières  
CH-1071 Chexbres  
Fax: +41 22 707 98 01

If to Purchaser:

Applied Materials, Inc.  
Attn: Joseph Sweeney, Senior Vice President,  
General Counsel and Corporate Secretary  
2881 Scott Boulevard, M/S 2064  
Santa Clara, CA 95050  
USA  
Fax: +1 408 563 4635

and to:

Applied Materials, Inc.  
Attn: Greg Psihas, Managing Director,  
Corporate Business Development  
3050 Bowers Avenue, M/S 0105  
Santa Clara, CA 95054  
USA  
Fax: +1 408 986 7260

If to the Sellers' Representative:

Mr. Martin Anderson  
Baker & McKenzie Geneva  
4, chemin des Vergers  
CH-1208 Geneva  
Fax: +41 22 707 98 01

Each Party may at any time change its address by giving notice thereof to the other Parties in the manner described above.

Any notice or other communication made hereunder shall become effective: (i) if hand delivered, upon delivery; (ii) if made by registered or certified mail, on the date of receipt indicated on the return receipt; or (iii) if sent by facsimile transmission, when transmitted and electronic confirmation received; provided that a notice delivered on a non-working day in the place of receipt shall be deemed to be given the next working day in such place.

#### **11.4 No Waiver**

The failure of any of the Parties to enforce any of the provisions of this Agreement or any rights with respect thereto shall in no way be considered as a waiver of such provisions or rights or in any way to affect the validity thereof. No Party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

#### **11.5 Entire Agreement / Amendment**

This Agreement, together with the Schedules hereto, embodies the entire agreement among the Parties hereto with respect to the transactions contemplated herein, and there have been and are no agreements, representations, warranties or covenants among the Parties other than those set forth or provided for herein. This Agreement may be amended only in writing through a document signed by the Parties hereto.

#### **11.6 Binding on Successors**

All of the terms, provisions and conditions contained in this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors, assigns and legal representatives.

#### **11.7 Further Acts**

Each Party shall promptly do and perform all further acts and execute and deliver all further documentation (in form and content reasonably satisfactory to the Party requesting such act or document) required by applicable Legal Requirements or reasonably requested by any other Party to give effect to this Agreement and the transactions contemplated hereby.

### 11.8 Construction

As used in this Agreement, the words “include” and “including”, and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.” The governing language for this Agreement shall be English.

## ARTICLE 12 GOVERNING LAW AND DISPUTE RESOLUTION

### 12.1 Governing Law

This Agreement shall be subject to and governed by the laws of Switzerland.

### 12.2 Dispute Resolution

In the event that there shall be any dispute arising out of or in connection with this Agreement, the Parties covenant and agree as follows:

- (a) The Parties involved in such dispute shall first use reasonable business efforts to resolve such dispute among themselves. The Parties involved in such dispute agree to meet face-to-face to discuss the issues and attempt, in good faith, to negotiate an amicable resolution. Such meeting will take place not later than 30 days after written notice of a dispute is served by one Party upon the other Parties involved in such dispute.
- (b) If the Parties involved in such dispute fail to achieve a resolution within 60 days of the initiation of the dispute resolution process, the dispute shall be solely and finally settled by an arbitral tribunal consisting of three arbitrators in accordance with the Rules of International Arbitration of the Swiss Chambers of Commerce, it being understood that Purchaser shall select one arbitrator, Sellers together shall select the second arbitrator and the two arbitrators shall select the third arbitrator. The place of arbitration shall be Geneva. The arbitral tribunal shall conduct the proceedings in the English language.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date and year first above written.

HSBC Global Custody Nominee (UK) Ltd.,  
Account 918732:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 757549:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 758979:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 814458:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 758170:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 778392:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 825031:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 838177:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

HSBC Global Custody Nominee (UK) Ltd.,  
Account 918720:

/s/ Tom Chaloner  
on behalf of Montagu Private Equity LLP

Mr. André Müller:

/s/ Andre Muller

Mr. Stefan Schneeberger:

/s/ Stefan Schneeberger

Martin Anderson, as Sellers' Representative:

/s/ Martin Anderson

Applied Materials, Inc.:

/s/ Mark Pinto  
Mark Pinto  
Senior Vice President

Mr. Charles Hauser:

/s/ Charles Hauser

Mr. Keith Anderson:

/s/ Keith Anderson

Mr. Pierre Maréchal:

/s/ Pierre Marechal

## SCHEDULES

Schedule 1:	Financials statements of the Company as of 31 January 2005, 31 January 2006, 31 January 2007 and 31 May 2007
Schedule 2:	Shareholdings of Sellers
Schedule 3:	Form of resignation letter of members of the Board of Directors
Schedule 4:	Disclosure letter
Schedule 5:	Excerpt from the Register of Commerce, articles of incorporation and organisational regulations of the Acquired Companies
Schedule 6:	List of bank accounts
Schedule 7:	List of intellectual property rights of the Acquired Companies
Schedule 8:	List of material agreements of the Acquired Companies
Schedule 9:	Data room index
Schedule 10:	List of employees
Schedule 11:	Indemnity Escrow Agreement
Schedule 12:	Seller 13 Deferral Escrow Agreement
Schedule 13:	Seller 14 Deferral Escrow Agreement
Schedule 14:	List of subsidiaries
Schedule 15:	Deferral amounts

**SCHEDULE 2**  
**SHAREHOLDINGS OF THE RESPECTIVE SELLERS**

<b>Class A Shares</b>		
Seller 1	189,709	Shares A
Seller 2	19,948	Shares A
Seller 3	79,788	Shares A
Seller 4	19,948	Shares A
Seller 5	17,672	Shares A
Seller 6	66,490	Shares A
Seller 7	23,937	Shares A
Seller 8	39,894	Shares A
Seller 9	33,511	Shares A
Seller 1 to 9	3	Shares A (held by three directors of the Company in a fiduciary capacity for the account of Seller 1, Seller 2, Seller 3, Seller 4, Seller 5, Seller 6, Seller 7, Seller 8 and Seller 9, acting jointly and severally for such purpose)
Subtotal:	490,900	Shares A
<b>Class B Shares</b>		
Seller 10	252,000	Shares B
<b>Class C Shares</b>		
Seller 11	12,698	Shares C
<b>Class D Shares</b>		
Seller 11	41,368	Shares D
Seller 12	20,684	Shares D
Seller 13	31,026	Shares D
Seller 14	10,342	Shares D
Subtotal:	103,420	Shares D



**SEPARATION AGREEMENT AND RELEASE**

This Separation Agreement and Release ("Agreement") is made by and between Farhad Moghadam ("Employee") and Applied Materials, Inc. (the "Company") (jointly referred to as the "Parties" and individually referred to as a "Party").

**RECITALS**

WHEREAS, Employee is employed by the Company as its Senior Vice President and General Manager of Thin Films Products Business Group and Foundation Engineering;

WHEREAS, Employee signed an Employee Agreement with the Company on May 6, 1996 (the "Confidentiality Agreement");

WHEREAS, Employee resigned from his employment with the Company effective September 1, 2007 (the "Termination Date");

WHEREAS, the Company and Employee have entered into Stock Option and Performance Share Agreements, dated November 19, 2002, December 11, 2002, November 3, 2004, December 13, 2005 and January 25, 2007, granting Employee performance shares (also called restricted stock units) and the option to purchase shares of the Company's common stock subject to the terms and conditions of the Company's Employee Stock Incentive Plan (the "Stock Option Plan") and the relevant Performance Share Agreements and Stock Option Agreements (collectively the "Stock Agreements"); and

WHEREAS, the Parties wish to resolve any and all disputes, claims, complaints, grievances, charges, actions, petitions, and demands that the Employee may have against the Company and any of the Releasees as defined below, including, but not limited to, any and all claims arising out of, or in any way related to Employee's employment with, or separation from, the Company.

NOW, THEREFORE, in consideration of the mutual promises made herein, the Company and Employee hereby agree as follows:

**COVENANTS****1. Consideration.**

a. **Continuing Employment.** The Company shall continue to employ Employee, and Employee agrees to remain employed by the Company, in his role as Senior Vice President and General Manager of Thin Films Products Business Group and Foundation Engineering, up to and including the Termination Date. During Employee's workdays through and including the Termination Date, Employee shall perform the duties assigned to him by the Company's Chief Executive Officer, which shall not be inconsistent with his role as Senior Vice President and General Manager of Thin Films Products Business Group and Foundation Engineering. The Company shall continue to pay Employee his base salary in accordance with the Company's regular payroll

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practices up to and including the Termination Date. Notwithstanding the foregoing, the Company may terminate Employee's employment prior to the Termination Date for "Cause" (as defined in Section 15 hereof). If Employee is terminated for Cause prior to the Termination Date, he shall not be eligible for any of the benefits or consideration set forth in this Agreement. Employee shall continue to comply with his Confidentiality Agreement as well as all other Company policies. During his employment with the Company, Employee shall continue to be eligible to participate in all benefits and incidents of employment, including the Company's health insurance plan, and he shall continue to accrue vacation. In addition, Employee shall continue to vest in stock options and performance shares on the same terms, schedule and conditions as set forth in the Stock Agreements. As a result of such continued vesting, from the date of this Agreement through the Termination Date, Employee is scheduled to vest in the number of stock options and performance shares indicated on Exhibit A hereto.

b. Cash. Provided that Employee does not breach this Agreement (including Section 12), the Company agrees to pay Employee the sum of One Million Six Hundred Thousand Dollars (\$1,600,000.00), less applicable withholding. Provided that Employee does not breach this Agreement (including Section 12), this payment shall be credited to Employee's account under the 2005 Executive Deferred Compensation Plan (the "Deferred Compensation Plan"), pursuant to the terms of Employee's previous election under the Deferred Compensation Plan with respect to such severance payment, in three installments as follows: 1) a lump sum amount of \$400,000 shall be credited on September 2, 2007; 2) a lump sum amount of \$400,000 shall be credited on March 2, 2008; and 3) the final lump sum amount of \$800,000 shall be credited on December 31, 2008.

c. Benefits. Employee's health insurance benefits shall cease on September 30, 2007, subject to Employee's right to continue his health insurance benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"). Provided that Employee does not breach this Agreement (including Section 12), the Company agrees to reimburse Employee for the payments Employee makes for COBRA coverage for a period of eighteen (18) months following the Termination Date (or, if earlier, until Employee obtains substantially similar coverage under another employer's group insurance plan or ceases to be eligible for COBRA continuation coverage), provided that Employee timely elects and pays for COBRA coverage. COBRA reimbursements shall be made by the Company to Employee consistent with the Company's normal expense reimbursement policy, and will require documentation from Employee substantiating his payments for COBRA coverage. Except as otherwise provided herein, Employee's participation in all benefits and incidents of employment, including, but not limited to, the accrual of bonuses, vacation, paid time off, and vesting (including, but not limited to, vesting of equity awards), shall cease as of the Termination Date.

d. Equity Compensation. Provided that Employee executes the Supplemental Agreement and Release attached hereto as Exhibit D on or within 21 days after the Termination Date, and does not revoke the Supplemental Agreement and Release, the Company agrees to accelerate the vesting of stock options to purchase a total of 112,500 shares of Company common stock granted under the relevant Stock Option Agreements and the Company's Stock Option Plan and to accelerate the vesting of a total of 12,500 performance shares granted pursuant to the Performance Share Agreement dated December 13, 2005 (the "Accelerated Performance Shares")

and the Company's Stock Option Plan, as detailed in Exhibit B attached hereto. Notwithstanding such accelerated vesting, the Accelerated Performance Shares will be paid out to Employee in accordance with the original vesting schedule contained in the Performance Share Agreement dated December 13, 2005. Effective as of the "Effective Date" (as defined in Section 25 hereof), Employee's stock options listed on Exhibit C hereto shall remain exercisable until the earlier of (1) the one-year anniversary of the Termination Date, or (2) the applicable scheduled expiration dates of such stock options as set forth in the relevant Stock Option Agreement. In all other respects, such options, all of Employees other vested options and the issuance of any shares shall continue to be governed by the terms and conditions of the Company's Stock Agreements. Except as provided herein, all stock options, performance shares and any shares issuable under such awards shall continue to be subject to the terms and conditions of the Company's Stock Agreements. The accelerated vesting provided in this Section 1(d) constitutes an amendment to the Stock Option Agreements and the Performance Share Agreement listed on Exhibit B and the option exercisability extension provided in this Section 1(d) constitutes an amendment to the Stock Option Agreements listed on Exhibit C. To the extent not explicitly amended hereby, the Stock Agreements remain in full force and effect.

2. Payment of Salary. Employee acknowledges and represents that the Company has paid or provided all salary, wages, bonuses, accrued vacation/paid time off, housing allowances, relocation costs, interest, severance, outplacement costs, fees, reimbursable expenses, commissions, stock, stock options, vesting, and any and all other benefits and compensation due to Employee.

3. Release of Claims. Employee agrees that the consideration set forth in this Agreement represents settlement in full of all outstanding obligations owed to Employee by the Company and its current and former: officers, directors, employees, agents, investors, attorneys, shareholders, administrators, affiliates, divisions, and subsidiaries, and predecessor and successor corporations and assigns (collectively, the "Releasees"). Employee, on his own behalf and on behalf of his respective heirs, family members, executors, agents, and assigns, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Employee may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up until and including the Effective Date of this Agreement, including, without limitation:

- a. any and all claims relating to or arising from Employee's employment relationship with the Company and the termination of that relationship;
- b. any and all claims relating to, or arising from, Employee's right to purchase, or actual purchase of shares of stock of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;
- c. any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; harassment; retaliation; breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory

estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion; and disability benefits;

d. any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Labor Standards Act, except as prohibited by law; the Fair Credit Reporting Act; the Age Discrimination in Employment Act of 1967; the Older Workers Benefit Protection Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Family and Medical Leave Act, except as prohibited by law; the Sarbanes-Oxley Act of 2002; the California Family Rights Act; the California Labor Code, except as prohibited by law; the California Workers' Compensation Act, except as prohibited by law; and the California Fair Employment and Housing Act;

e. any and all claims for violation of the federal or any state constitution;

f. any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;

g. any claim for any loss, cost, damage, or expense arising out of any dispute over the non-withholding or other tax treatment of any of the proceeds received by Employee as a result of this Agreement; and

h. any and all claims for attorneys' fees and costs.

Employee agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. This release does not extend to any obligations incurred under this Agreement. This release does not release claims that cannot be released as a matter of law, including, but not limited to: (1) Employee's right to file a charge with, or participate in a charge by, the Equal Employment Opportunity Commission or comparable state agency against the Company (with the understanding that any such filing or participation does not give Employee the right to recover any monetary damages against the Company; Employee's release of claims herein bars Employee from recovering such monetary relief from the Company); (2) claims under Division 3, Article 2 of the California Labor Code (which includes California Labor Code section 2802 regarding indemnity for necessary expenditures or losses by employee); and (3) claims prohibited from release as set forth in California Labor Code section 206.5 (specifically "any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made").

4. Acknowledgment of Waiver of Claims under ADEA. Employee acknowledges that he is waiving and releasing any rights he may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Employee agrees that this waiver and release does not apply to any rights or claims that may arise under the

ADEA after the Effective Date of this Agreement. Employee acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Employee was already entitled. Employee further acknowledges that he has been advised by this writing that: (a) he should consult with an attorney prior to executing this Agreement; (b) he has twenty-one (21) days within which to consider this Agreement; (c) he has seven (7) days following his execution of this Agreement to revoke this Agreement; (d) this Agreement shall not be effective until after the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Employee from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Employee signs this Agreement and returns it to the Company in less than the 21-day period identified above, Employee hereby acknowledges that he has freely and voluntarily chosen to waive the time period allotted for considering this Agreement. Employee acknowledges and understands that revocation must be accomplished by a written notification to Michael R. Splinter, President and Chief Executive Officer, that is received prior to the Effective Date.

5. California Civil Code Section 1542. Employee acknowledges that he has been advised to consult with legal counsel and is familiar with the provisions of California Civil Code Section 1542, a statute that otherwise prohibits the release of unknown claims, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Employee, being aware of said code section, agrees to expressly waive any rights he may have thereunder, as well as under any other statute or common law principles of similar effect.

6. No Pending or Future Lawsuits. Employee represents that he has no lawsuits, claims, or actions pending in his name, or on behalf of any other person or entity, against the Company or any of the other Releasees. Employee also represents that he does not intend to bring any claims on his own behalf or on behalf of any other person or entity against the Company or any of the other Releasees.

7. Trade Secrets and Confidential Information/Company Property. Employee reaffirms and agrees to observe and abide by the terms of the Confidentiality Agreement, specifically including the provisions therein regarding nondisclosure of the Company's trade secrets and confidential and proprietary information. Employee's signature below constitutes his certification that he has returned to the Company all documents and other items provided to Employee by the Company, developed or obtained by Employee in connection with his employment with the Company, or otherwise belonging to the Company. Employee hereby grants consent to notification by the Company to any new employer about Employee's obligations under this Section. Employee

represents that he has not to date misused or disclosed Confidential Information to any unauthorized party.

8. **No Cooperation.** Employee agrees that he will not knowingly encourage, counsel, or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against any of the Releasees, unless under a subpoena or other court order to do so. Employee agrees both to immediately notify the Company upon receipt of any such subpoena or court order, and to furnish, within three (3) business days of its receipt, a copy of such subpoena or other court order. If approached by anyone for counsel or assistance in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints against any of the Releasees, Employee shall state no more than that he cannot provide counsel or assistance.

9. **Non-Disparagement.** Employee agrees to refrain from any disparagement, defamation, libel, or slander of any of the Releasees, and agrees to refrain from any tortious interference with the contracts and relationships of any of the Releasees. Employee shall direct any inquiries by potential future employers to the Company's Vice President of Human Resources, who shall use his/her best efforts to respond by providing only the Employee's last position and dates of employment. The Company agrees to refrain from any disparagement, defamation, libel, or slander of Employee. Employee understands that the Company's obligations under this paragraph extend only to the Company's current executive officers and members of its Board of Directors and only for so long as each officer or director is an employee or director of the Company. The Parties further agree that each Party shall have the opportunity to review and approve any press release or other publicly distributed written communication (other than the Company's filings pursuant to the Securities Exchange Act of 1934, as amended) regarding Employee's departure from the Company prior to publication or release of such communication.

10. **Breach.** Employee acknowledges and agrees that any material breach of this Agreement (including any breach of Section 12) or the Confidentiality Agreement shall entitle the Company immediately to recover and cease providing the consideration provided to Employee under Section 1 of this Agreement, unless such breach constitutes a legal action by Employee challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA or as otherwise provided by law. Except as provided by law, Employee shall also be responsible to the Company for all damages incurred by the Company, including reasonable attorneys' fees and costs, in: (a) enforcing Employee's obligations under this Agreement or the Confidentiality Agreement, including in any action to recover the consideration, if and only if Company prevails in any such action, and (b) defending against a claim or suit brought or pursued by Employee in violation of the terms of Sections 3-5 of this Agreement.

11. **No Admission of Liability.** Employee understands and acknowledges that this Agreement constitutes a compromise and settlement of any and all actual or potential disputed claims by Employee. No action taken by the Company hereto, either previously or in connection with this Agreement, shall be deemed or construed to be (a) an admission of the truth or falsity of any actual or potential claims or (b) an acknowledgment or admission by the Company of any fault or liability whatsoever to Employee or to any third party.

12. Non-Competition. During the period commencing on the Termination Date and ending on December 31, 2008 (the "Non-Competition Period"), Employee shall not (other than in connection with his employment services to the Company through the Termination Date), without the prior express written permission of the Company's Chief Executive Officer, work as an employee, officer, director, consultant, contractor, advisor, or agent of any of the Company's Competitors (as defined below). The Company's Competitors ("Competitors") for purposes of this Agreement are the following: Novellus, ASM International, Lam, TEL (Tokyo Electron), and Varian Semiconductor.

13. Non-Solicitation. Employee agrees that for the duration of the Non-Competition Period, Employee shall not directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment at the Company. Notwithstanding the foregoing, with respect to the Company's employees who are not included on a list that has been provided to Employee (the "Key Employee List"), a general advertisement by a subsequent employer of Employee that is not specifically directed to such employees shall not be deemed a violation of this Section 13. During the Non-Competition Period, the Employee may show the Key Employee List only to the highest ranking human resources executive at Employee's then-current employer solely for the purpose of complying with this Section 13; however, such human resources executive may not copy or distribute the Key Employee List, and must return such list and any and all copies thereof at the end of the Employee's employment with such employer or, if earlier, at the end of the Non-Competition Period.

14. Costs. The Parties shall each bear their own costs, attorneys' fees, and other fees incurred in connection with the preparation of this Agreement.

15. Definitions.

- a. For purposes of this Agreement, "Cause" shall mean:
  - i. Employee's conviction of, or plea of guilty or nolo contendere to, a felony or Employee's entry into a deferred prosecution agreement with respect to a charge of a felony;
  - ii. A material breach by Employee of this Agreement, the Confidentiality Agreement or of a Company policy (provided that the Employee shall have twenty (20) days after receipt of written notice of such violation by the Company to cure any breach that is capable of cure), unless such breach constitutes a legal action by Employee challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA or as otherwise provided by law;

- iii. Fraud, dishonesty, willful misconduct or gross negligence by Employee that impacts the Company's business or reputation;
- iv. Employee being found liable in any Securities and Exchange Commission or other civil or criminal securities law action or entering into any cease and desist order with respect to such action (regardless of whether or not Employee admits or denies liability);
- v. Employee (A) obstructing or impeding; (B) endeavoring to influence, obstruct or impede, or (C) failing to cooperate in good faith with, any investigation authorized by the Board or any governmental or self-regulatory entity (an "Investigation"). However, Employee's failure to waive attorney-client privilege relating to communications with Employee's own attorney in connection with an Investigation will not constitute "Cause"; or
- vi. Employee's disqualification or bar by any governmental or self-regulatory authority from serving in the capacity contemplated by the Agreement or Employee's loss of any governmental or self-regulatory license that is reasonably necessary for Employee to perform his responsibilities to the Company under the Agreement, if (A) the disqualification, bar or loss continues for more than thirty (30) days, and (B) during that period the Company uses its good faith efforts to cause the disqualification or bar to be lifted or the license replaced. While any disqualification, bar or loss continues during Employee's employment, Employee will serve in the capacity contemplated by the Agreement to whatever extent legally permissible and, if Employee's employment is not permissible, Employee will be placed on leave (which will be paid to the extent legally permissible).

16. ARBITRATION. THE PARTIES AGREE THAT ANY AND ALL DISPUTES ARISING OUT OF THE TERMS OF THIS AGREEMENT, THEIR INTERPRETATION, AND ANY OF THE MATTERS HEREIN RELEASED, SHALL BE SUBJECT TO ARBITRATION IN SANTA CLARA COUNTY, CALIFORNIA, BEFORE JAMS, PURSUANT TO ITS EMPLOYMENT ARBITRATION RULES & PROCEDURES ("JAMS RULES"). THE ARBITRATOR MAY GRANT INJUNCTIONS AND OTHER RELIEF IN SUCH DISPUTES. THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE, AND THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO ANY CONFLICT-OF-LAW PROVISIONS OF ANY JURISDICTION. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH CALIFORNIA LAW, CALIFORNIA LAW SHALL TAKE PRECEDENCE. THE DECISION OF THE ARBITRATOR SHALL BE FINAL, CONCLUSIVE, AND BINDING ON THE PARTIES TO THE ARBITRATION. THE PARTIES AGREE THAT THE PREVAILING PARTY IN ANY ARBITRATION SHALL BE ENTITLED



TO INJUNCTIVE RELIEF IN ANY COURT OF COMPETENT JURISDICTION TO ENFORCE THE ARBITRATION AWARD. THE PARTIES TO THE ARBITRATION SHALL EACH PAY AN EQUAL SHARE OF THE COSTS AND EXPENSES OF SUCH ARBITRATION, AND EACH PARTY SHALL SEPARATELY PAY FOR ITS RESPECTIVE COUNSEL FEES AND EXPENSES; PROVIDED, HOWEVER, THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS PROHIBITED BY LAW OR AS OTHERWISE PROVIDED HEREIN. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHT TO HAVE ANY DISPUTE BETWEEN THEM RESOLVED IN A COURT OF LAW BY A JUDGE OR JURY. NOTWITHSTANDING THE FOREGOING, THIS SECTION WILL NOT PREVENT EITHER PARTY FROM SEEKING INJUNCTIVE RELIEF (OR ANY OTHER PROVISIONAL REMEDY) FROM ANY COURT HAVING JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER OF THEIR DISPUTE RELATING TO THIS AGREEMENT AND THE AGREEMENTS INCORPORATED HEREIN BY REFERENCE.

17. **Tax Consequences.** The Company makes no representations or warranties with respect to the tax consequences of the payments and any other consideration provided to Employee or made on his behalf under the terms of this Agreement. Employee agrees and understands that he is responsible for payment, if any, of local, state, and/or federal taxes on the payments and any other consideration provided hereunder by the Company and any penalties or assessments thereon. Employee further agrees to indemnify and hold the Company harmless from any claims, demands, deficiencies, penalties, interest, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of (a) Employee's failure to pay or the Company's failure to withhold, or Employee's delayed payment of, federal or state taxes, or (b) damages sustained by the Company by reason of any such claims, including attorneys' fees and costs.

18. **Authority.** The Company represents and warrants that the undersigned has the authority to act on behalf of the Company and to bind the Company and all who may claim through it to the terms and conditions of this Agreement. Employee represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind them to the terms and conditions of this Agreement. Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein.

19. **No Representations.** Employee represents that he has had an opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement. Employee has not relied upon any representations or statements made by the Company that are not specifically set forth in this Agreement.

20. **Severability.** In the event that any provision or any portion of any provision hereof becomes or is declared by a court of competent jurisdiction or arbitrator to be illegal, unenforceable, or void, this Agreement shall continue in full force and effect without said provision or portion of provision.

21. Attorneys' Fees. Except with regard to a legal action challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, in the event that either Party brings an action to enforce or effect its rights under this Agreement, the prevailing Party shall be entitled to recover its costs and expenses, including the costs of mediation, arbitration, litigation, court fees, and reasonable attorneys' fees incurred in connection with such an action, except as otherwise provided herein.

22. Entire Agreement. This Agreement, the Confidentiality Agreement, and the Stock Agreements (as amended hereby) represent the entire agreement and understanding between the Company and Employee concerning the subject matter of this Agreement and Employee's employment with and separation from the Company and the events leading thereto and associated therewith, and supersede and replace any and all prior agreements and understandings concerning the subject matter of this Agreement and Employee's relationship with the Company. To the extent that there is any conflict or inconsistency between this Agreement and the Confidentiality Agreement, this Agreement shall govern.

23. No Oral Modification. This Agreement may only be amended in a writing signed by Employee and the Company's Chief Executive Officer.

24. Governing Law. This Agreement shall be governed by the laws of the State of California, without regard for choice-of-law provisions.

25. Effective Date. Each Party has seven (7) days after that Party signs this Agreement to revoke it. This Agreement will become effective on the eighth day after it has been signed by both parties, so long as it is not revoked by either Party before that date (the "Effective Date").

26. Counterparts. This Agreement may be executed in counterparts and by facsimile, and each counterpart and facsimile shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

27. Voluntary Execution of Agreement. Employee understands and agrees that he executed this Agreement voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of his claims against the Company and any of the other Releasees. Employee acknowledges that:

- (a) he has read this Agreement;
- (b) he has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of his own choice or has elected not to retain legal counsel;
- (c) he understands the terms and consequences of this Agreement and of the releases it contains; and
- (d) he is fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

FARHAD MOGHADAM, an individual

Dated: 7/19/07

/s/ Farhad Moghadam  
Farhad Moghadam

APPLIED MATERIALS, INC.

Dated: 7/19/07

By /s/ Jeannette Liebman  
Jeannette Liebman  
Group Vice President, Global Human Resources

**Exhibit A**

Options and Performance Shares Scheduled to Vest Through the Termination Date

Grant ID	Grant Date	Award Type	# of Shares Scheduled to Vest
AMI561013	12/13/05	Stock Option	50,000
AMI561019	12/13/05	Performance Shares (RSU)	12,500

**Exhibit B**

Options and Performance Shares to Accelerate on the Termination Date

Grant ID	Grant Date	Award Type	# of Shares to Accelerate
AMI561019	12/13/05	Performance Shares (RSU)	12,500
AMI212600	11/03/04	Stock Option	62,500
AMI561013	12/13/05	Stock Option	50,000

**Exhibit C**

Options to Be Extended up to the One-Year Anniversary of the Termination Date

<b>Grant ID</b>	<b>Grant Date</b>	<b>Maximum Expiration Date</b>	<b># of Shares Subject to Option</b>	<b>Exercise Price Per Share</b>
AMI311527	10/29/03	10/29/10	100,000	\$22.58
AMI311528	10/29/03	10/29/10	200,000	\$22.58
116052	08/16/01	08/16/08	20,000	\$22.35

**Exhibit D**

**SUPPLEMENTAL AGREEMENT AND RELEASE**

This Supplemental Agreement and Release ("Supplemental Agreement") is made by and between Farhad Moghadam ("Employee") and Applied Materials, Inc. (the "Company") (jointly referred to as the "Parties" or individually referred to as a "Party").

1. **Separation Agreement.** The Company and Employee agree that the terms of the Separation Agreement and Release that became effective on July \_\_\_\_, 2007 (the "Agreement") shall remain in full force and effect and are fully incorporated herein except to the extent they are inconsistent with this Supplemental Agreement.

2. **Consideration.**

a. **Cash and Benefits.** Provided Employee has not breached the Agreement, has not been terminated for "Cause" prior to his "Termination Date" (as such terms are defined in the Agreement) and executes and does not revoke this Supplemental Agreement, Employee shall continue to receive the cash and benefits provided in Sections 1(b), 1(c) and 1(d) of the Agreement.

b. **Equity Compensation.** The Company agrees to accelerate the vesting of stock options to purchase a total of 112,500 shares of Company common stock granted under the relevant Stock Option Agreements and the Company's Stock Option Plan and to accelerate the vesting of a total of 12,500 performance shares granted pursuant to the Performance Share Agreement dated December 13, 2005 (the "Accelerated Performance Shares") and the Company's Stock Option Plan, as detailed in **Exhibit B** to the Agreement. Notwithstanding the accelerated vesting, the Accelerated Performance Shares will be paid out to Employee in accordance with the original vesting schedule contained in the Performance Share Agreement dated December 13, 2005. Effective as of the "Effective Date" (as defined in Section 25 of the Agreement), Employee's stock options listed on **Exhibit C** to the Agreement shall remain exercisable until the earlier of (1) the one-year anniversary of the Termination Date, or (2) the applicable scheduled expiration dates of such stock options as set forth in the relevant Stock Option Agreement. In all other respects, such options, all of Employees other vested options and the issuance of any shares shall continue to be governed by the terms and conditions of the Company's Stock Agreements Except as provided herein or in the Agreement, all stock options, performance shares and the shares issuable under such awards shall continue to be subject to the terms and conditions of the Company's Stock Agreements. The acceleration provided in this Section 1(b) constitutes an amendment to the Option Agreements and the Performance Share Agreement listed on Exhibit B and the option exercisability extension provided in this Section 1(b) constitutes an amendment to the Stock Option Agreements listed on **Exhibit C**. To the extent not explicitly amended hereby, the Stock Agreements remain in full force and effect.

3. **Payment of Salary.** Employee acknowledges and represents that the Company has paid or provided all salary, wages, bonuses, accrued vacation/paid time off, housing allowances,

relocation costs, interest, severance, outplacement costs, fees, reimbursable expenses, commissions, stock, stock options, vesting, and any and all other benefits and compensation due to Employee.

4. Release of Claims. Employee agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Employee by the Company and its current and former officers, directors, employees, agents, investors, attorneys, shareholders, administrators, affiliates, divisions, and subsidiaries, and predecessor and successor corporations and assigns (collectively, the "Releasees"). Employee, on his own behalf and on behalf of his respective heirs, family members, executors, agents, and assigns, hereby and forever releases the Releasees from, and agrees not to sue concerning, or in any manner to institute, prosecute or pursue, any claim, complaint, charge, duty, obligation, or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that Employee may possess against any of the Releasees arising from any omissions, acts, facts, or damages that have occurred up until and including the Effective Date of this Supplemental Agreement, including, without limitation:

a. any and all claims relating to or arising from Employee's employment relationship with the Company and the termination of that relationship;

b. any and all claims relating to, or arising from, Employee's right to purchase, or actual purchase of shares of stock of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

c. any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; harassment; retaliation; breach of contract, both express and implied; breach of covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; conversion; and disability benefits;

d. any and all claims for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Labor Standards Act, except as prohibited by law; the Fair Credit Reporting Act; the Age Discrimination in Employment Act of 1967; the Older Workers Benefit Protection Act; the Employee Retirement Income Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Family and Medical Leave Act, except as prohibited by law; the Sarbanes-Oxley Act of 2002; the California Family Rights Act; the California Labor Code, except as prohibited by law; the California Workers' Compensation Act, except as prohibited by law; and the California Fair Employment and Housing Act;

e. any and all claims for violation of the federal or any state constitution;



f. any and all claims arising out of any other laws and regulations relating to employment or employment discrimination;

g. any claim for any loss, cost, damage, or expense arising out of any dispute over the non-withholding or other tax treatment of any of the proceeds received by Employee as a result of this Supplemental Agreement; and

h. any and all claims for attorneys' fees and costs.

Employee agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. This release does not extend to any obligations incurred under this Supplemental Agreement. This release does not release claims that cannot be released as a matter of law, including, but not limited to: (1) Employee's right to file a charge with, or participate in a charge by, the Equal Employment Opportunity Commission or comparable state agency against the Company (with the understanding that any such filing or participation does not give Employee the right to recover any monetary damages against the Company; Employee's release of claims herein bars Employee from recovering such monetary relief from the Company); (2) claims under Division 3, Article 2 of the California Labor Code (which includes California Labor Code section 2802 regarding indemnity for necessary expenditures or losses by employee); and (3) claims prohibited from release as set forth in California Labor Code section 206.5 (specifically "any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made").

5. Acknowledgment of Waiver of Claims under ADEA. Employee acknowledges that he is waiving and releasing any rights he may have under the Age Discrimination in Employment Act of 1967 ("ADEA"), and that this waiver and release is knowing and voluntary. Employee agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Supplemental Agreement. Employee acknowledges that the consideration given for this waiver and release is in addition to anything of value to which Employee was already entitled. Employee further acknowledges that he has been advised by this writing that: (a) he should consult with an attorney prior to executing this Supplemental Agreement; (b) he has twenty-one (21) days within which to consider this Supplemental Agreement; (c) he has seven (7) days following his execution of this Supplemental Agreement to revoke this Supplemental Agreement; (d) this Supplemental Agreement shall not be effective until after the revocation period has expired; and (e) nothing in this Supplemental Agreement prevents or precludes Employee from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties, or costs for doing so, unless specifically authorized by federal law. In the event Employee signs this Supplemental Agreement and returns it to the Company in less than the 21-day period identified above, Employee hereby acknowledges that he has freely and voluntarily chosen to waive the time period allotted for considering this Supplemental Agreement. Employee acknowledges and understands that revocation must be accomplished by a written notification to Michael R. Splinter, President and Chief Executive Officer, that is received prior to the Effective Date of this Supplemental Agreement.

6. California Civil Code Section 1542. Employee acknowledges that he has been advised to consult with legal counsel and is familiar with the provisions of California Civil Code Section 1542, a statute that otherwise prohibits the release of unknown claims, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Employee, being aware of said code section, agrees to expressly waive any rights he may have thereunder, as well as under any other statute or common law principles of similar effect.

7. No Pending or Future Lawsuits. Employee represents that he has no lawsuits, claims, or actions pending in his name, or on behalf of any other person or entity, against the Company or any of the other Releasees. Employee also represents that he does not intend to bring any claims on his own behalf or on behalf of any other person or entity against the Company or any of the other Releasees.

8. Breach. Employee acknowledges and agrees that any material breach of this Supplemental Agreement, unless such breach constitutes a legal action by Employee challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, shall entitle the Company immediately to recover and/or cease providing the consideration provided to Employee under this Supplemental Agreement, except as provided by law. Except as provided by law, Employee shall also be responsible to the Company for all costs, attorneys' fees, and any and all damages incurred by the Company in: (a) enforcing Employee's obligations under this Supplemental Agreement, including in any action to recover the consideration, if and only if Company prevails in any such action, and (b) defending against a claim or suit brought or pursued by Employee in violation of the terms of Sections 4-6 of this Agreement.

9. ARBITRATION. THE PARTIES AGREE THAT ANY AND ALL DISPUTES ARISING OUT OF THE TERMS OF THIS SUPPLEMENTAL AGREEMENT, THEIR INTERPRETATION, AND ANY OF THE MATTERS HEREIN RELEASED, SHALL BE SUBJECT TO ARBITRATION IN SANTA CLARA COUNTY, CALIFORNIA, BEFORE JAMS, PURSUANT TO ITS EMPLOYMENT ARBITRATION RULES & PROCEDURES ("JAMS RULES"). THE ARBITRATOR MAY GRANT INJUNCTIONS AND OTHER RELIEF IN SUCH DISPUTES. THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE, AND THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO ANY CONFLICT-OF-LAW PROVISIONS OF ANY JURISDICTION. TO THE EXTENT THAT THE JAMS RULES CONFLICT WITH CALIFORNIA LAW, CALIFORNIA LAW SHALL TAKE PRECEDENCE. THE DECISION OF THE ARBITRATOR SHALL BE FINAL, CONCLUSIVE, AND BINDING ON THE PARTIES TO

THE ARBITRATION. THE PARTIES AGREE THAT THE PREVAILING PARTY IN ANY ARBITRATION SHALL BE ENTITLED TO INJUNCTIVE RELIEF IN ANY COURT OF COMPETENT JURISDICTION TO ENFORCE THE ARBITRATION AWARD. THE PARTIES TO THE ARBITRATION SHALL EACH PAY AN EQUAL SHARE OF THE COSTS AND EXPENSES OF SUCH ARBITRATION, AND EACH PARTY SHALL SEPARATELY PAY FOR ITS RESPECTIVE COUNSEL FEES AND EXPENSES; PROVIDED, HOWEVER, THAT THE ARBITRATOR SHALL AWARD ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY, EXCEPT AS PROHIBITED BY LAW. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHT TO HAVE ANY DISPUTE BETWEEN THEM RESOLVED IN A COURT OF LAW BY A JUDGE OR JURY. NOTWITHSTANDING THE FOREGOING, THIS SECTION WILL NOT PREVENT EITHER PARTY FROM SEEKING INJUNCTIVE RELIEF (OR ANY OTHER PROVISIONAL REMEDY) FROM ANY COURT HAVING JURISDICTION OVER THE PARTIES AND THE SUBJECT MATTER OF THEIR DISPUTE RELATING TO THIS SUPPLEMENTAL AGREEMENT AND THE AGREEMENTS INCORPORATED HEREIN BY REFERENCE.

10. Tax Consequences. The Company makes no representations or warranties with respect to the tax consequences of the payments and any other consideration provided to Employee or made on his behalf under the terms of this Supplemental Agreement. Employee agrees and understands that he is responsible for payment, if any, of local, state, and/or federal taxes on the payments and any other consideration provided hereunder by the Company and any penalties or assessments thereon. Employee further agrees to indemnify and hold the Company harmless from any claims, demands, deficiencies, penalties, interest, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of (a) Employee's failure to pay or the Company's failure to withhold, or Employee's delayed payment of, federal or state taxes, or (b) damages sustained by the Company by reason of any such claims, including attorneys' fees and costs.

11. No Representations. Employee represents that he has had an opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Supplemental Agreement. Employee has not relied upon any representations or statements made by the Company that are not specifically set forth in this Supplemental Agreement.

12. Severability. In the event that any provision or any portion of any provision hereof becomes or is declared by a court of competent jurisdiction or arbitrator to be illegal, unenforceable, or void, this Supplemental Agreement shall continue in full force and effect without said provision or portion of provision.

13. Attorneys' Fees. Except with regard to a legal action challenging or seeking a determination in good faith of the validity of the waiver herein under the ADEA, in the event that either Party brings an action to enforce or effect its rights under this Supplemental Agreement, the prevailing Party shall be entitled to recover its costs and expenses, including the costs of mediation, arbitration, litigation, court fees, and reasonable attorneys' fees incurred in connection with such an action.

14. Entire Agreement. This Supplemental Agreement represents the entire agreement and understanding between the Company and Employee concerning the subject matter of this Supplemental Agreement and Employee's relationship with the Company, the termination thereof, and the events leading thereto and associated therewith, and supersedes and replaces any and all prior agreements and understandings concerning the subject matter of this Supplemental Agreement and Employee's relationship with the Company, with the exception of the Agreement, the Confidentiality Agreement and the Stock Agreements (as identified and defined in the Agreement).

15. No Oral Modification. This Supplemental Agreement may only be amended in a writing signed by Employee and the Company's Chief Executive Officer.

16. Governing Law. This Supplemental Agreement shall be governed by the laws of the State of California, without regard for choice-of-law provisions.

17. Effective Date. Each Party has seven (7) days after that Party signs this Supplemental Agreement to revoke it. This Supplemental Agreement will become effective on the eighth day after it has been signed by both parties, so long as it is not revoked by either Party before that date (the "Effective Date").

18. Counterparts. This Supplemental Agreement may be executed in counterparts and by facsimile, and each counterpart and facsimile shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

19. Voluntary Execution of Agreement. Employee understands and agrees that he executed this Supplemental Agreement voluntarily, without any duress or undue influence on the part or behalf of the Company or any third party, with the full intent of releasing all of his claims against the Company and any of the other Releasees. Employee acknowledges that:

- (a) he has read this Supplemental Agreement;
- (b) he has been represented in the preparation, negotiation, and execution of this Supplemental Agreement by legal counsel of his own choice or has elected not to retain legal counsel;
- (c) he understands the terms and consequences of this Supplemental Agreement and of the releases it contains; and
- (d) he is fully aware of the legal and binding effect of this Supplemental Agreement.

IN WITNESS WHEREOF, the Parties have executed this Supplemental Agreement on the respective dates set forth below.

FARHAD MOGHADAM, an individual

Dated: \_\_\_\_\_

\_\_\_\_\_  
Farhad Moghadam

APPLIED MATERIALS, INC.

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Jeannette Liebman  
Group Vice President, Global Human Resources

## CERTIFICATION

I, Michael R. Splinter, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Applied Materials, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 30, 2007

/s/ Michael R. Splinter  
Michael R. Splinter  
President and Chief Executive Officer

## CERTIFICATION

I, George S. Davis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Applied Materials, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 30, 2007

/s/ George S. Davis

George S. Davis  
Senior Vice President, Chief Financial Officer

**APPLIED MATERIALS, INC.**  
**SARBANES-OXLEY ACT SECTION 906 CERTIFICATION**

In connection with the Quarterly Report on Form 10-Q of Applied Materials, Inc. for the period ended July 29, 2007, I, Michael R. Splinter, President and Chief Executive Officer of Applied Materials, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. the Form 10-Q for the period ended July 29, 2007 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Form 10-Q for the period ended July 29, 2007 fairly presents, in all material respects, the financial condition and results of operations of Applied Materials, Inc. for the periods presented therein.

Date: August 30, 2007

/s/ Michael R. Splinter

Michael R. Splinter

President and Chief Executive Officer



**APPLIED MATERIALS, INC.**  
**SARBANES-OXLEY ACT SECTION 906 CERTIFICATION**

In connection with the Quarterly Report on Form 10-Q of Applied Materials, Inc. for the period ended July 29, 2007, I, George S. Davis, Senior Vice President, Chief Financial Officer of Applied Materials, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. the Form 10-Q for the period ended July 29, 2007 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. the information contained in the Form 10-Q for the period ended July 29, 2007 fairly presents, in all material respects, the financial condition and results of operations of Applied Materials, Inc. for the periods presented therein.

Date: August 30, 2007

/s/ George S. Davis

George S. Davis

Senior Vice President, Chief Financial Officer