

Signature Copy

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into this 31 day of October 2008, by and between defendants Mitsubishi Electric Corporation and Mitsubishi Electric and Electronics USA, Inc. (individually and collectively "Mitsubishi") and the plaintiff class representatives ("Plaintiffs"), both individually and on behalf of a settlement class of direct purchasers of DRAM ("Class") that purchased DRAM in the United States at any time during the period beginning April 1, 1999 and continuing through June 30, 2002 (the "Class Period"), as more particularly defined in paragraph A.1 below.

WHEREAS, Plaintiffs are prosecuting an action (the "Action") on their own behalf and on behalf of the Class against Mitsubishi;

WHEREAS, Plaintiffs allege that Mitsubishi participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of DRAM at artificially high levels in violation of Section 1 of the Sherman Act;

WHEREAS, Mitsubishi denies Plaintiffs' allegations and has asserted defenses to Plaintiffs' claims;

WHEREAS, Plaintiffs have conducted an investigation into the facts and the law regarding the Action and have concluded that resolving claims against Mitsubishi according to the terms set forth below is in the best interest of Plaintiffs and the Class;

WHEREAS, Mitsubishi, despite its belief that it is not liable for the claims asserted and has good defenses thereto, has nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against Mitsubishi based on the allegations of the Action, as more particularly set out below;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the Action be settled, compromised, and dismissed on the merits with prejudice as to the Mitsubishi Releasees, as defined below, and except as hereinafter provided, without costs as to Plaintiffs, the Class, or Mitsubishi, subject to the approval of the Court, on the following terms and conditions:

A. Definitions.

1. For purposes of this Agreement, "the Class" is defined as all individuals and entities who, at any time during the period beginning April 1, 1999 and continuing through June 30, 2002 (the "Class Period"), purchased DRAM in the United States directly from Mitsubishi or any of its alleged co-conspirators, Elpida Memory, Inc., Elpida Memory (USA) Inc., Hynix Semiconductor, Inc., Hynix Semiconductor America, Inc., Infineon Technologies AG, Mosel-Vitellic, Inc., Mosel Vitelic Corp., NEC Electronics America, Inc., Nanya Technology Corporation USA, Samsung Electronics Company, Ltd., Infineon Technologies North America Corp., Micron Technology, Inc., Micron Semiconductor Products, Inc. through its Crucial

Signature Copy

Technology division, Samsung Semiconductor, Inc., Winbond Electronics Corporation, Winbond Electronics Corporation America, and each of their parents, subsidiaries or affiliates. The definitions of Class and Class Period herein do not limit the scope of the Release provided in paragraphs 13-15 of this Agreement. Excluded from the Class are Mitsubishi and its alleged co-conspirators, their parents, subsidiaries, affiliates, and all governmental entities.

2. For purposes of this Agreement, DRAM is defined to mean dynamic random access memory components, including without limitation, synchronous dynamic random access memory ("SDRAM"), Rambus dynamic random access memory ("RDRAM"), asynchronous dynamic random access memory ("ASYNC"), FPM DRAM, EDO DRAM, BEDO RAM and double data rate synchronous dynamic random access memory ("DDR") semiconductor devices and modules of each, but excluding PSRAM.

3. "Mitsubishi Releasees" shall refer to Mitsubishi and to all of its respective past and present, direct and indirect, parents, subsidiaries, affiliates; the predecessors, successors and assigns of any of the above; and each and all of the present and former principals, partners, officers, directors, supervisors, employees, representatives, insurers, attorneys, heirs, executors, administrators, and assigns of each of the foregoing.

4. "Class Member" means each member of the Class who does not timely elect to be excluded from the Class.

5. "Releasers" shall refer to the plaintiff class representatives and the Class Members, and to their past and present officers, directors, employees, agents, stockholders, attorneys, servants, representatives, parents, subsidiaries, affiliates, partners, insurers and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and the predecessors, successors, heirs, executives, administrators and assigns of any of the foregoing.

6. "The Settlement Fund" shall be \$7,100,000, plus (a) a maximum of \$400,000 to be used for notice and administration costs, and (b) 5% of Mitsubishi's DRAM sales during the Class Period to Class Members in excess of \$142,000,000, who remain in the Class following the deadline for opting out, and have not otherwise settled with Mitsubishi as set forth in paragraph 19; in United States funds, plus accrued interest on such deposits set forth in paragraph 21.

7. "Co-Lead Counsel" shall refer to the law firms of:

Guido Saveri
Saveri & Saveri, Inc.
111 Pine Street, Suite 1700
San Francisco, CA 94111

Anthony D. Shapiro
Hagens Berman Sobol Shapiro
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101

Signature Copy

Fred Taylor Isquith
Wolf Haldenstein Adler Freeman & Herz LLP
270 Madison Avenue
New York, NY 10016

B. Approval of this Agreement and Dismissal of Claims Against Mitsubishi.

8. Plaintiffs and Mitsubishi shall use their best efforts to effectuate this Agreement, including cooperating in promptly seeking the Court's approval for the establishment of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)) to secure the prompt, complete, and final dismissal with prejudice of the Action as to Mitsubishi.

9. As soon as practicable after the date of this Agreement, Plaintiffs shall submit to the Court, a motion for preliminary approval of the settlement and final judgment contemplated by this Agreement and a motion for authorization to disseminate notice of the settlement and final judgment contemplated by this Agreement to all putative class members (the "Notice Motion"). If notice to the Class is given jointly with any other future settlement with any additional company, for purposes of paragraphs 17 and 23(a) below, the costs of notice and claims administration shall be shared equally with any other such company, and Mitsubishi's obligation to pay a maximum of \$400,000 in notice costs pursuant to Paragraph 6 shall be reduced accordingly. The Notice Motion shall include (i) a proposed form of, method for, and date of dissemination of notice; and (ii) a proposed form of order and final judgment. The text of the foregoing Notice Motion shall be agreed upon by Plaintiffs and Mitsubishi before submission of the Motion, with the understanding that, among other things, individual notice of the settlement shall be mailed by regular mail or email, with appropriate notice by publication, with all expenses paid from the Settlement Fund, to persons and entities identified in the Action as direct purchasers of DRAM that purchased DRAM during the Class Period. Within a reasonable period of time following execution of this Settlement Agreement, Mitsubishi shall use its best efforts to supply to Co-Lead Counsel, at Mitsubishi's expense and in such form as may be reasonably requested by Co-Lead Counsel, such names and addresses in its possession of entities or persons to whom Mitsubishi sold DRAM in the United States during the Class Period. The Notice Motion shall recite and ask the Court to find that the mailing of the notice of settlement to all members of the Class who can be identified upon reasonable effort constitutes valid, due and sufficient notice to the Class, constitutes the best notice practicable under the circumstances, and complies fully with the requirements of Federal Rule of Civil Procedure 23.

10. Plaintiffs and Mitsubishi shall jointly seek entry of an order and final judgment, the text of which Plaintiffs and Mitsubishi shall agree upon. That order and final judgment will at a minimum include terms that in substance:

- a. approve finally this settlement and its terms as being a fair, reasonable and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

Signature Copy

- b. as to Mitsubishi, direct that the Action be dismissed with prejudice and, except as provided for in this Agreement, without costs and fees;
- c. reserve exclusive jurisdiction over the settlement and this Agreement, including the administration and consummation of this settlement to the United States District Court for the Northern District of California;
- d. determine under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Mitsubishi shall be final; and
- e. direct Co-Lead Counsel to file with the Clerk of the Court a record of putative class members who timely excluded themselves from the class and shall provide a copy of the record to counsel for Mitsubishi.

11. This Agreement shall become final when (i) the Court has entered a final order approving this Agreement under Federal Rule of Civil Procedure 23(e) and a final judgment dismissing the Action with prejudice as to Mitsubishi against all Class Members and without costs and fees other than those provided for in this Agreement, and (ii) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as to Mitsubishi has expired or, if appealed, approval of this Agreement and the final judgment as to Mitsubishi have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review. It is agreed that the provisions of Rule 60 of the Federal Rules of Civil Procedure shall not be taken into account in determining the above-stated times. On the date that Plaintiffs and Mitsubishi have executed this Agreement, Plaintiffs and Mitsubishi shall be bound by its terms and this Agreement shall not be rescinded except in accordance with paragraphs 21 or 28 of this Agreement.

12. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, documents and discussions associated with them, shall be deemed or construed to be an admission by Mitsubishi (or the Mitsubishi Releasees) or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by Mitsubishi (or the Mitsubishi Releasees), or of the truth of any of the claims or allegations contained in any complaint or any other pleading filed by Plaintiffs in the Action, and evidence of the Agreement, final judgment, and negotiations, documents and discussions associated therewith shall not be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any other action taken to carry out this Agreement by any of the settling parties shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceedings, except in a proceeding to enforce this Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

C. Release, Discharge, and Covenant Not to Sue.

13. In addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final as set out in paragraph 11 of this Agreement, and in consideration of payment of the Settlement Fund, as specified in paragraph 16 of this Agreement, and for other valuable consideration, the Mitsubishi Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, representatively, derivatively or in any other capacity) that Releasors, or each of them, ever had, now has, or hereafter can, shall, or may have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected injuries, damages, and the consequences thereof in any way arising out of or relating in any way to any act or omission of the Mitsubishi Releasees (or any of them) concerning the manufacture, supply, distribution, sale or pricing of DRAM products up to the date of execution of this Agreement, including but not limited to any conduct alleged, and causes of action asserted or that could have been alleged or asserted, in class action complaints filed in the Action, including those arising under any United States federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, or trade practice law, including without limitation, the Sherman Antitrust Act, 15 U.S.C. 1 et seq. (the "Released Claims"). Releasors shall not, after the date of this Agreement, seek to establish liability against any Mitsubishi Releasee based, in whole or in part, upon any of the Released Claims or conduct at issue in the Released Claims.

14. In addition to the provisions of paragraph 13 of this Agreement, Releasors hereby expressly waive and release, upon this Agreement becoming final, any and all provisions, rights, and benefits conferred by '1542 of the California Civil Code, which states:

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

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to '1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are the subject matter of the provisions of paragraph 13 of this Agreement, but each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of paragraph 13 of this Agreement, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

Signature Copy

15. The release, discharge, and covenant not to sue set forth in paragraph 13 of this Agreement does not include claims by any of the Class Members other than the Released Claims and does not include other claims, such as those solely arising out of product liability or breach of contract claims in the ordinary course of business not covered by the Released Claims. Further, the release, discharge and covenant not to sue set forth in paragraph 13 of this Agreement includes only direct purchaser claims.

D. Settlement Amount.

16. Subject to the provisions hereof, and in full, complete and final settlement of the Action as provided herein, defendant Mitsubishi shall wire \$7,500,000 in United States Dollars (which includes \$400,000 paid pursuant to Paragraph 6 for notice and administration costs) into an escrow account to be administered in accordance with the provisions of paragraph 21 of this Agreement (the "Escrow Account"). The \$7,500,000 shall be wired within thirty-five (35) business days from the date on which the motion for preliminary approval of settlement pursuant to the Federal Rules of Civil Procedure is filed.

17. If Plaintiffs reach settlement with one or more potential defendants in addition to Mitsubishi, the cost of notice and administration will be shared equally by Mitsubishi and other settling defendants. If Mitsubishi has already wired funds to the Escrow Account as required by Paragraphs 6 and 16 of this Agreement, and if the actual cost of administration and notice allocable to Mitsubishi is less than \$400,000 either because the total cost is less than \$400,000, or because Mitsubishi's share of the cost after accounting for other settling parties is less than \$400,000, then the difference shall be funded to Mitsubishi reasonably promptly following a determination of the total costs of administration and notice.

18. Within a reasonable period following execution of this Agreement, Mitsubishi will provide plaintiffs' Co-Lead Counsel with a list of Class Members with whom it has not settled and the total amount of purchases of DRAM made by each such listed Class Member from Mitsubishi in the United States during the Class Period. This list is hereinafter referred to as the "Mitsubishi Customer List," and it shall be kept confidential. Co-Lead Counsel for the Class shall have the right at their expense to audit the Mitsubishi Customer List consistent with any confidentiality restrictions that are applicable provided that any such right to audit shall expire 30 days following the last date to opt out of the Class. After the audit is completed, if there is any dispute regarding the Mitsubishi Customer List or any sales amounts listed in the Mitsubishi Customer List, such dispute shall be resolved by submitting the dispute to a Special Master appointed by the Court presiding over the Action, the costs of such Special Master to be borne equally by Class counsel on the one hand and Mitsubishi on the other. The settlement fund of \$7,100,000 will not be reduced by any additional settlements with Class Members or any opt outs.

19. In addition to the settlement amount set forth in paragraph 16, Mitsubishi agrees to pay an additional amount by wire transfer to the Escrow Account within the latter of (i) 45 days after the last day for any party to opt out of the Class or (ii) 45 days after receipt by MELCO of the complete list of opt outs referenced. The additional payment, if any, shall be equal to 5% of those sales of DRAM listed in the Mitsubishi Customer List in excess of \$142