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 EXHIBIT 10.16  
  
 MANUFACTURING AGREEMENT  
  
 AGREEMENT #: C-06259  
  
 EFFECTIVE DATE: 4/13/98  
  
 EXPIRATION DATE: 4/16/99  
  
 CNDA#: 95182  
  
This Agreement is entered this ("Effective Date") by and between Intel Flash  
Products Division, with a place of business at 0000 Xxxxxxx Xxxx Xxxx, Xxxxxx,  
Xxxxxxxxxx ("Intel") and XeTel Corporation, with place of business at 0000 Xxxxx  
Xxxxx Xx., Xxxxxx, Xxxxx ("Supplier"), singularly or collectively referred to as  
a Party or the Parties.  
  
  
 RECITALS  
  
o WHEREAS, Intel is an international manufacturer of microprocesser and  
 Flash memory components, modules and systems.  
  
o WHEREAS, Supplier is a provider of contract manufacturing and  
 integration services; and  
  
o WHEREAS, Intel desires to engage the services of Supplier;  
  
 AGREEMENT  
  
NOW THEREFORE, in consideration of the mutual promises made herein and other  
good and valuable consideration, the Parties agree as follows:  
  
1.0 ADDENDA  
  
 The following Addenda are attached hereto and incorporated herein by  
reference.  
  
 "A" Product/Manufacturing Specifications, Pricing  
  
 "B" Quality Requirements, Performance Standards  
  
 "C" Negotiated Changes  
  
2.0 DEFINITIONS  
  
2.1 "Release" means an Intel purchase order authorizing Supplier to ship a  
 definite quantity of items according to a specified schedule.  
  
2.2 "Product(s)" means Flash Memory cards released by Intel and  
 manufactured by Supplier in accordance with this agreement.  
  
2.3 "Specifications" means the Intel proprietary product specifications,  
 manufacturing procedures, schematics, documentation, software, and  
 other materials provided by Intel to Supplier to enable Supplier to  
 manufacture Product(s) for Intel.  
  
2.4 "Forecast" means the quantity of Product(s) Intel reasonably expects to  
 release; however, Intel will not be obligated to accept or pay for such  
 quantities not committed by an issued Release.  
  
2.5 "Gross Unit Variance (GUV)" equals absolute sum of unit inventory  
 difference (physical v. book) divided by total book quantity.  
  
  
  
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2.6 "Gross Dollar Variance (GDV)" equals absolute sum of U.S. dollar  
 inventory difference (physical v. book) divided by total U.S. dollar  
 book value.  
  
2.7 "Net Dollar Variance (NDV)" equals sum of net U.S. dollar inventory  
 differences (physical v. book) divided by total U.S. dollar book value.  
  
2.8 "Defects per Million (DPM)" equals the number of defective units,  
 divided by the total number of samples, multiplied by one million.  
  
2.9 "Product Documentation" means any portion of documentation for Intel  
 software or hardware Product(s) in printed or electronic form  
 identified in a Release and provided to Supplier to Intel.  
  
2.10 "Software" means the software identified in a Release and provided to  
 Supplier by Intel in object code form expressly for the purpose of  
 duplication.  
  
2.11 "Material Overhead (MOH)" is the fee that Intel pays supplier to manage  
 turnkey material as set forth in Addendum A.  
  
2.12 "Labor Overhead (LOH)" is the fee that Intel pays supplier to assemble  
 product set forth in Addendum A.  
  
2.13 "Build Schedule" shall mean a weekly schedule issued by Intel  
 indicating five (5) business days of Product requirements.  
  
2.14 "Premises" refers to the area in which lines are used to manufacture  
 Intel Products reside.  
  
3.0 MANUFACTURING AND INTEGRATION SPECIFICATIONS  
  
3.1 Supplier shall manufacture and/or integrate Product(s) in accordance  
 with Intel Release and the Specifications set forth in Addendum A.  
  
3.3 Supplier shall not modify or deviate from the Specifications for  
 Product(s) without prior written approval from Intel. Intel may modify  
 the specifications at Intel's discretion. Supplier shall implement such  
 modifications in Supplier's manufacturing process within a reasonable  
 time following receipt of notification of the change from Intel.  
 Supplier shall implement safety or regulatory changes to work in  
 process immediately following receipt of notification of the change  
 from Intel.  
  
3.4 Intel may furnish additional Product(s) specific documentation upon  
 introduction of new Product(s) to the manufacturing line and may make  
 changes in such documentation, at any time, for any reason. Supplier  
 will acknowledge such additional documentation or change in existing  
 documentation with cost and schedule impact within forty-eight (48)  
 hours after receipt of notification.  
  
3.5 Supplier shall cooperate with Intel to provide configuration control  
 and traceability systems for Product(s) supplied hereunder.  
  
3.6 Supplier will maintain a process satisfactory to meet or exceed Intel's  
 documentation and quality requirements set forth in Addendum B.  
  
  
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4.0 LIMITED LICENSE  
  
4.1 Intel grants to Supplier a restricted, non-exclusive, non-transferable,  
 royalty-free license to copy and use the Specifications only to  
 manufacture Product(s) for Intel in accordance with the terms and  
 conditions of this Agreement, and for no other purpose.  
  
4.2 No rights or licenses are granted by Intel to Supplier, expressly or by  
 implication, estoppel or otherwise, with respect to any proprietary  
 information or patent, copyright, trade secret or other intellectual  
 property right owned or controlled by Intel, except as expressly  
 provided in the Agreement and its Amendments. No express or implied  
 license to Intel's Flash Memory products, system bus, processor, or  
 microprocessor-level intellectual property or manufacturing process  
 technology is granted.  
  
4.4 Intel grants to Supplier a non-exclusive, non-transferable,  
 royalty-free license to, i) reproduce Product Documentation in either  
 original or modified form solely for Intel at Intel's direction; ii)  
 distribute Product Documentation exclusively to locations identified by  
 Intel and at Intel's written direction.  
  
4.5 The license grant does not include the right to permit Supplier's  
 customers, agents, distributors, or any third party to reproduce  
 Software or Product Documentation without prior written approval from  
 Intel.  
  
4.6 Supplier shall reproduce all copyright notices wherever they appear in  
 the Software or Product Documentation.  
  
4.7 Supplier warrants that it will not reverse engineer or copy Intel  
 designs without the written authorization of Intel.  
  
5.0 PRICING, INVOICING AND PAYMENT  
  
5.1 Prices for Product(s) are set forth in Addendum A, in U.S. Dollars and  
 are based on an average lot size of 1200 units.  
  
5.2 Additional charges such as taxes, freight, duties and insurance shall  
 be stated separately on Supplier's invoice in U.S. Dollars. Such  
 additional charges will not be reimbursed without Intel's prior written  
 approval.  
  
5.3 Intel and Supplier agree to review and adjust material and conversion  
 pricing set forth in Addendum A not less than once per calendar  
 quarter. Material and conversion pricing for New Product Introductions  
 (NPI) or Product(s) undergoing Engineering Change Orders (ECO) which  
 change the Xxxx of Materials (BOM) may be updated within the quarter.  
  
5.4 Intel and Supplier agree to review and adjust material overhead prices  
 set forth in Addendum A not less than once per six (6) months. Without  
 limiting the foregoing, either Party may request re-negotiation of  
 material, material overhead or conversion prices based upon changes in  
 suppliers, materials' costs, designs, technology, forecasted volumes  
 and/or market conditions. Upon receipt of such request, the Parties  
 will re-negotiate prices in good faith. Pricing changes shall be  
 incorporated in this document  
  
5.5 Supplier shall, submit original invoices, which shall include the  
 purchase agreement number, purchase order number (including line item  
 release), part number including applicable revision level, packing slip  
 number, complete xxxx-to address, description of Product(s),  
 quantities, unit price and extended totals. Payment shall not  
 constitute acceptance.  
  
  
  
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5.6 Additional charges, such as but not limited to Non-Recurring  
 Engineering ("NRE") charges will not be reimbursed without Intel's  
 prior written approval.  
  
5.7 Supplier warrants to Intel that the price charged (for material cost,  
 MOH, and conversion)) Intel for Product(s) shall be Supplier's lowest  
 net price charged any customer for like products and/or services. If  
 Supplier sells similar products and/or services covered by this  
 Agreement to other customers at prices less than those set forth  
 herein, Supplier shall adjust to the lower price any unshipped Intel  
 Product(s) and all future Releases for Intel Product(s). Intel reserves  
 the right to inspect and audit Supplier's records to ensure compliance  
 with this requirement. Upon Supplier's written demand, such audit may  
 be performed by an independent third party at Intel's expense.  
  
5.8 Intel shall make payments to Supplier forty-five (45) days from the  
 later of the receipt of Product(s) or the date of receipt of a properly  
 executed invoice.  
  
6.0 DELIVERY, RELEASES, FLEXIBILITY, AND SCHEDULING  
  
6.1 On a monthly basis, in accordance with the Intel WW calendar, Intel  
 shall provide the Supplier with a new 26-week forward-looking build  
 plan schedule for finished good requirements. When a new build plan  
 schedule is submitted by Intel to the Supplier, the Supplier shall  
 provide Intel with a Response To Forecast (RTF) within the response  
 time specified below in paragraph 6.2. If/when RTF is approved by  
 Intel, this RTF becomes the active build plan schedule and is assumed  
 to be capacity and materials feasible.  
  
 On a weekly basis, Intel shall conduct a build plan review meeting with  
 the Supplier. During this meeting, the Supplier shall provide  
 information regarding; commits to the build plan schedule, prior weeks'  
 output data, and quantity of consigned Intel Flash component inventory  
 in raw material, WIP, and/or finished goods.  
  
 On a weekly basis, Supplier shall provide Intel with Supplier's actual  
 consumption of consigned Intel Flash Memory components for production,  
 loss, and yield, as well as quantity of finished goods shipments.  
  
 BUILD PLAN FLEXIBILITY  
  
 Supplier shall provide Intel with two of flexibility options for  
 altering the most current build plan schedule: volume flexibility and  
 product mix flexibility.  
  
 Volume Flexibility: Intel may provide the Supplier with an Exception  
 request to an active build plan schedule. Through an Exception, Intel  
 may request the Supplier to either increase or decrease the volume  
 builds by 25% for each week starting from, and including, the 6th  
 business day from the date the Exception request is submitted. Also,  
 through an Exception request, Intel may request the Supplier to either  
 increase or decrease the volume builds by 50% for each week starting  
 from the 6th week from the date of the Exception request.  
  
 When an Exception is approved by Supplier, this Exception becomes the  
 active build plan Rev and is assumed to be capacity and materials  
 feasible.  
  
 Product Mix Flexibility: Intel may request revisions to the  
 distribution or mix of the product line items specified on an active  
 build plan schedule or build plan Rev. Starting from and including the  
 6th business day from the date of the Exception, Intel may request that  
 the mix of line items being manufactured are revised within the limits  
 of capacity and materials availability.  
  
  
  
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 All Forecasts are for planning purposes only and are not commitments to  
 purchase. As such, all Forecasts are subject to change and are not  
 commitment(s). Supplier understands that Intel's demand is dependent on  
 market and other factors beyond Intel's control. This may result in  
 demand being reduced or eliminated.  
  
6.2 Supplier will provide confirmation of receipt of Intel Releases and  
 feasibility of exception requests as follows:  
  
  
  
 Type of Request Response Time  
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 Weekly Production Updates 24 hours local time after receipt by Supplier  
  
 Upside Flexibility Requests 48 hours local time after receipt by Supplier  
 NPI-Beta/Pilot Requests 48 hours local time after receipt by Supplier  
 Standard Price Quotes 5 business days local time after receipt by Supplier  
  
  
6.4 Supplier acknowledges that time is of the essence of this Agreement,  
 and Supplier agrees to maintain one-hundred percent (100%) on-time  
 delivery. "On-time delivery" means that a delivery occurs during the  
 period five (5) business days before the delivery dates identified in  
 Intel's Release. Supplier agrees to comply with the delivery lead times  
 set forth in Addendum B. Supplier shall monitor and report weekly  
 delivery and shipping performance as required in Addendum A. Intel may  
 return nonconforming, early, or excess shipments at Supplier's risk and  
 expense.  
  
6.5 Supplier shall promptly notify Intel in writing if Supplier is unable  
 to make any scheduled delivery. Such notice shall state the reasons  
 for the delay and a corrective action plan to alleviate impact of the  
 delay to Intel. At a minimum, Supplier shall use best efforts to remedy  
 delays and to complete shipment of Product(s) in a timely manner,  
 including without limitation, expedited delivery and use of additional  
 temporary personnel at no additional charge to Intel.  
  
6.6 Intel may reschedule any Release in whole or in part at any time.  
 Supplier will use best efforts to comply with Intel's rescheduling  
 requests. Intel may push out a Release one time to a maximum of 60  
 days. Intel will pay a storage fee of 1%/ month on any Materials for  
 these delayed Releases that cannot be used for other Releases or used  
 for other customers. A second push out of a Release or a push out  
 beyond 60 days will be handled as a canceled release per section 6.7.  
  
6.7 Intel may cancel all or any part of any Release at any time. Supplier  
 shall stop work immediately upon receipt of such notice. Intel shall  
 not incur charges for materials which can be used for other Intel  
 Product(s) or Supplier's customers. Regardless of material lead time,  
 Intel's payment obligations shall not exceed the following: Intel will  
 assume all Purchase Orders for components related to the release which  
 are non cancelable and cannot be used for another Intel release or  
 supplier product. Intel will maintain the right to sell to Supplier  
 products purchased through such assumed Purchase Orders, at Intel's  
 cost, for use in future releases.  
  
6.8 Upon payment of Supplier's claim, Intel shall be entitled to all work  
 and materials paid for. Before assuming payment obligation under this  
 section, Intel may inspect Supplier's inventory and audit all relevant  
 documents prior to paying Supplier's invoice.  
  
7.0 TERM AND TERMINATION  
  
7.1 The term of this Agreement shall begin on the Effective Date and  
 continue for one (1) calendar year. This Agreement shall automatically  
 renew for successive one (1) calendar year terms.  
  
7.2 At Intel's option, Product(s) may be scheduled for delivery up to six  
 (6) months following expiration of this Agreement.  
  
  
  
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7.3 Not withstanding the above, Intel may terminate this Agreement in whole  
 or in part at any time and for any reason upon giving) written notice  
 to Supplier. If said notice is provided ninety days in advance of  
 cancellation, Intel's obligation shall not exceed Supplier's total cost  
 for the materials canceled. If notice is provided less than ninety  
 days in advance of cancellation date, Intel's obligation shall not  
 exceed Supplier's total cost for the materials canceled, plus  
 reasonable administrative and labor costs as stated in paragraph(s) 6.7  
 and 6.8 above.  
  
7.4 In the event of termination on the part of either Intel or Supplier,  
 Supplier will return consigned equipment (identified in Addendum D) and  
 materials at Intel's expense.  
  
8.0 ACCEPTANCE AND WARRANTY  
  
8.1 All Product(s) are subject to Intel's inspection and test before final  
 acceptance at Intel's premises. If any inspection or test is made on  
 Supplier's premises, Supplier shall provide Intel's inspectors with  
 reasonable facilities and assistance at no additional charge. Neither  
 inspection nor acceptance by Intel shall constitute a waiver of any  
 defect or nonconformity.  
  
8.2 Intel shall have the right to reject any Product(s) found to be  
 defective or non-conforming in material, workmanship, and/or processes  
 or which fails to conform with the Specifications set forth in Addendum  
 A. Supplier shall promptly replace or correct such Product(s) at no  
 additional charge to Intel. In addition, at Intel's request, Supplier  
 will provide root cause analysis and corrective action plans for  
 rejected Product(s).  
  
8.3 Supplier warrants that all Product(s) furnished hereunder shall be  
 merchantable, free from defects in workmanship and material, and shall  
 conform to the specifications set forth in Addendum A. During a period  
 of one (1) year after Intel's acceptance of Product(s), at Intel's  
 option, Supplier shall promptly repair or replace the Product(s) or  
 refund the purchase price and cost of shipment of all non-conforming  
 Product(s)' at no cost to Intel and will pay Intel the cost of  
 recalling or replacing any non-conforming Product(s) already shipped by  
 Intel and in the field. Supplier will pay all costs of transportation  
 of defective Product(s) by Intel to the facility, and return of  
 repaired or replacement Product(s) by Supplier to Intel. Supplier shall  
 bear the risk of loss of such Product(s) while in transit. Cost of  
 recall shall include all costs associated with the following;  
 identifying and locating all defective parts, notifying all affected  
 Intel customers of said defective parts, replacement of said defective  
 parts, cost of shipping both defective parts back to Intel for  
 replacement and shipping of replacement parts to Intel's customers, as  
 well as any support services required to accomplish these tasks.  
  
8.4 Supplier shall use best efforts to maintain one-hundred percent (100%)  
 quality acceptance levels as measured by Intel in accordance with the  
 quality specifications set forth in Addendum B. Supplier shall be  
 responsible for any expenses that result because Supplier does not meet  
 all quality specifications set forth herein. Such expenses may include,  
 but are not limited to (i) the cost of recalling per 8.3 above,  
 correcting, or replacing defective units in the field; (ii) shipping  
 additional Product(s) at Supplier's expense and risk, (iii) increasing  
 inspection, and (iv) providing personnel at Intel's site to assist in  
 problem resolution or rework of material. Supplier agrees to exercise  
 reasonable efforts to pull in the next scheduled shipment to fill  
 Product(s) void caused by any shipment rejected by Intel.  
  
8.5 As used in this Section, the term "Epidemic Failure" means a specific  
 product failure affecting five percent (5%) or more of a specific  
 Product(s) weekly shipment or release, whichever is smaller, under  
 warranty, which is a direct result of a defect in Suppliers material  
 and workmanship. In the event of an Epidemic Failure, Supplier shall  
 perform root cause analysis of the failure and cooperate with Intel to  
 implement remedial actions necessary to correct the failure mode.  
 Furthermore, without limiting its obligations pursuant to the warranty  
 provisions set forth above, Supplier shall reimburse Intel for any and  
 all standard freight and labor charges incidental to the  
  
  
  
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 Epidemic Failure, including, without limitation, the cost of recalling  
 as per 8.3 above, or replacing the affected Product already shipped by  
 Intel to Intel's distribution channel and to end customers.  
  
8.6 Supplier shall have no liability or responsibility under section 8.5  
 above for any loss or damage to the extent that any such Epidemic  
 Failure claims are the result of (i) Supplier's compliance with Intel's  
 supplied Specifications, (ii) the negligence of Intel, (iii)  
 modification or alteration of the Product(s) by a party other than  
 Supplier, and (iv) defects in Intel supplied components.  
  
8.7 Intel or it's customers may inspect work performed by Supplier and  
 Supplier's suppliers during normal business hours, including work  
 performed in Supplier facilities or facilities of Supplier's suppliers  
 upon 24 hours written notice. If any inspection is made by Intel upon  
 Supplier's facilities of the facilities of Supplier's supplier,  
 Supplier shall assist ensure reasonable facilities are available for  
 the safe and efficient completion of the inspection at no charge.  
  
9.0 RETURN OF DEFECTIVE MATERIALS  
  
9.1 Supplier shall issue a credit memo with a Return Material Authorization  
 ("RMA") tracking number for one-hundred percent (100%) of the purchase  
 order price for non-conforming Product(s) returned by Intel for  
 functional and non-functional defects. Credit shall be given against  
 Releases. Intel reserves the right of inspection to determine root  
 cause.  
  
9.2 Supplier shall pay freight charges for the return of non-conforming  
 Product(s) sent from Intel's facility to Supplier and to return  
 non-conforming Product(s) to Intel's designated facility.  
  
9.3 For return of non-conforming Product(s) which Supplier demonstrates to  
 Intel to be conforming, Intel shall pay round trip freight and other  
 specific costs associated with said Product(s) returned to Intel's  
 designated facility.  
  
10.0 PACKING AND SHIPMENT  
  
10.1 All Items shall be FOB Austin, Texas or as otherwise specified in the  
 Release. All Items shall be prepared for shipment in a manner which (i)  
 follows good commercial practice; (ii) is acceptable to common carriers  
 for shipment at the lowest rate; (iii) is adequate to ensure safe  
 arrival; and (iv) meets Intel packaging requirements as specified in  
 provided documents. Supplier shall xxxx all containers with necessary  
 lifting, handling and shipping information, purchase order number,  
 date of shipment and the names of the Buyer and Supplier. Buyer shall  
 notify Supplier of. the method of shipment and expected delivery date.  
 If no instructions are given, Supplier shall select the most cost  
 effective carrier, given the time constraints known to Supplier.  
 Supplier shall ship only the quantity of Items specified in the  
 Release. Buyer may return at Supplier's expense any Items in excess of  
 the quantity stated in the Release.  
  
11.0 INVENTORY CONTROL  
  
11.1 Supplier will track and account for all inventory within Supplier's  
 facility.  
  
11.2 Intel reserves the right to determine what materials will be consigned  
 to Supplier and what materials will be purchased by Supplier (`turnkey'  
 materials) for use in Intel Product(s).  
  
11.3 In the event Intel directs Supplier to purchase turnkey materials,  
 Supplier agrees to put forth reasonable efforts in negotiating  
 competitive turnkey material prices for Intel Product(s).  
  
11.4 Supplier shall be solely responsible for all costs associated with  
 purchasing turnkey materials for Intel Product(s), including but not  
 limited to, risk of loss and inventory variance. Intel agrees to  
 compensate Supplier for purchasing services via the overhead rate  
 defined in Addendum A.  
  
  
  
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11.5 Materials consigned to Supplier by Intel are subject to Section 20.0,  
 Consignment Provisions. Consigned materials will be classified in  
 categories by Intel Finance based on item value.  
  
11.6 Intel may consign materials to Supplier classified as "High Value Units  
 (HVU)", including but not limited to Flash memory components. Supplier  
 agrees to implement and maintain appropriate security and accounting  
 procedures. Supplier also agrees to allow Intel Security and/or Intel  
 Risk Assessment to perform audits to ensure compliance.  
  
11.7 Intel may consign materials to Supplier that are not classified HVU,  
 but still require heightened security. Supplier agrees to treat items  
 identified as such.  
  
11.8 Supplier agrees to audit consigned inventory per the category specific  
 cycle counting schedules as below:  
  
  
  
 Category Count Frequency Count Sample Requirements  
 -------- --------------- -----------------------------------------  
   
 HVU Weekly 100% every week  
 non-HVU Quarterly Minimum 25% per month and 90% per quarter  
  
  
11.9 Supplier shall adhere to the following cycle count minimum variance  
 guidelines for consigned inventories:  
  
  
  
 Category GUV  
 -------- ---  
   
 HVU 0.5%  
 non-HVU 3.0%  
  
  
11.10 Supplier shall contact Intel immediately if reconciliation variance  
 occurs with HVU and non-HVU material. Supplier shall report weekly  
 cycle count results to Intel within one (1) working day from the end of  
 the cycle count. Supplier's report shall include  
 investigation/corrective action status for any measured variances  
 outside the guidelines herein.  
  
11.11 Supplier bears all risk of loss for Intel consigned inventory and shall  
 reimburse Intel, at Intel's request, for the best customer price of  
 Intel consigned inventory variances in excess of the guidelines herein.  
 Supplier is responsible for all variances on turnkey material.  
  
11.12 Supplier shall generally not hold finished goods inventory for greater  
 than eight (8) hours. If Supplier holds finished goods inventory for  
 any time greater than eight (8) hours, the finished goods shall be  
 located in a secured area and controlled as consigned materials.  
 Supplier agrees to take necessary security measures to assure all  
 finished goods are protected from theft or damage.  
  
11.13 Supplier shall maintain a documented and effective material disposition  
 and control process. This will include a quarantine area to segregate  
 discrepant material and finished goods. For HVU consigned materials and  
 finished goods, the quarantine area shall meet HVU security  
 requirements. Intel will review and disposition consigned materials.  
  
12.0 NEW DEVELOPMENTS  
  
12.1 All services performed by Supplier under this Agreement are exclusively  
 for Intel. Supplier will assign and hereby does assign to Intel all  
 right, title and interest to those things developed for Intel,  
 henceforth known as "Intellectual Property Improvements" or "IPI",  
 including, but not limited to inventions, designs, trademarks,  
 discoveries, formulas, processes, plans, specifications,  
  
  
  
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 guidelines, graphics, drawings, films, videotapes, slides, scripts,  
 software programs, software documentation, training materials,  
 illustrations, ideas, copyrightable works, trade secrets or other ideas  
 and materials made or conceived regarding improvements to Intel  
 specified manufacturing or assembly processes or Product(s) by  
 Supplier, its employees, subcontractors, consultants or agents, during  
 the term of and arising out of services performed under this Agreement,  
 which were not in existence before this agreement, or for which Intel  
 has not paid a Non-Recurring Engineering charge or tooling charge.  
 Upon Intel's request, Supplier shall execute an assignment of copyright  
 and any other relevant intellectual property rights to Intel covering  
 any copyrightable deliverables accepted by Intel hereunder. Supplier  
 shall treat all IPI as Intel Confidential Information under Section 15  
 below, and shall use all IPI only for manufacturing Product(s) under  
 this Agreement.  
  
12.2 Supplier shall assist Intel, at Intel's expense, in obtaining,  
 registering, perfecting and enforcing all patents, trademarks, mask  
 work rights or copyrights necessary to protect Intel's interest in the  
 items assigned to Intel pursuant to the foregoing paragraph. This  
 includes the disclosure of all pertinent information, the execution of  
 applications, specifications, oaths and assignments and any other  
 papers by Supplier necessary to ensure said protection for Intel.  
  
12.3 All documentation developed by Supplier and connected with Supplier's  
 services to Intel hereunder or associated with deliverables assigned to  
 Intel pursuant to the foregoing, shall be the exclusive property of  
 Intel. Upon Intel's request, Supplier shall make all such documentation  
 available to Intel.  
  
12.4 Supplier agrees to allow Intel and Supplier to jointly escort Intel  
 customers and/or suppliers through Supplier facilities.  
  
13.0 OWNERSHIP AND BAILMENT RESPONSIBILITIES  
  
13.1 Any specifications, drawings, schematics, technical information, data,  
 tools, dies, patterns, masks, gauges, test equipment and other  
 materials furnished or paid for by Intel shall (i) be kept  
 confidential, (ii) remain or become Intel's property, (iii) be used by  
 Supplier exclusively for Intel's orders, (iv) be clearly marked as  
 Intel's property and segregated when not in use, (v) be kept in good  
 working condition at Supplier's expense except for pre-approved  
 extraordinary calibration costs, and (vi) be shipped to Intel promptly  
 on demand. Supplier shall insure Intel's property and be liable for  
 loss or damage while in Supplier's possession or control, ordinary wear  
 and tear excepted.  
  
13.2 Consigned Materials. Supplier's use of materials consigned by Intel to  
 Supplier shall be governed by the terms and conditions of the  
 Consignment Provisions set forth in Section 20.0.  
  
13.3 Bailment of Equipment. Supplier's use of equipment supplied by Intel  
 shall be governed by the terms and conditions of the Loan of Equipment  
 and Bailment Provisions set forth in Addendum D.  
  
14.0 INSURANCE  
  
14.1 General Liability. Without limiting or qualifying Supplier's  
 liabilities, obligations or indemnities otherwise assumed by Supplier  
 pursuant to this Agreement, Supplier shall maintain, at its sole cost  
 and expense, Commercial General Liability and Automobile Liability  
 Insurance with limits of liability not less than $10,000,000.00 per  
 occurrence and including liability coverage for bodily injury or  
 property damage (i) assumed in a contract or agreement pertaining to  
 Supplier's business and (ii) arising out of Supplier's Product,  
 services or work. Supplier's insurance shall be primary, and any  
 applicable insurance maintained by Intel shall be excess and  
 non-contributing. The above coverages shall name Intel as additional  
 insured, and shall contain a severability of interest clause.  
  
  
  
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14.2 Fire and Casualty Insurance. Supplier shall secure, pay for, and at all  
 times during the terms hereof maintain, insurance providing coverage  
 upon Supplier's premises, any loaned equipment, materials, components,  
 consigned inventory and work in process in an amount equal to the  
 guaranteed replacement costs thereof, and insuring against theft, fire  
 and other risks normally covered by standard all-risk property  
 insurance. Supplier shall bear the cost of any deductible or  
 co-insurance and, in the event of a loss, Supplier shall reimburse  
 Intel for such deductible or co-insurance. Supplier shall provide Intel  
 with a certificate of insurance showing Intel as loss payee or  
 equivalent with provision for no less than thirty (30) days written  
 notice to Intel of insurance termination or material changes in  
 coverage.  
  
14.3 Employer's Liability. Supplier shall also maintain statutory Workers'  
 Compensation coverage, including a Broad Form All States Endorsement in  
 the amount required by law, and Employers' Liability Insurance in the  
 amount of $1,000,000.00 per occurrence. Such insurance shall include an  
 insurer's waiver of subrogation in favor of Intel.  
  
14.4 Certificate of Insurance. Supplier shall provide Intel with properly  
 executed Certificate(s) of Insurance prior to commencement of any  
 operation hereunder and shall notify Intel, no less than 30 days in  
 advance, of any reduction or cancellation of the above coverages.  
  
14.5 Insurance Inspections  
  
 Supplier shall permit Intel to perform reasonable insurance and safety  
 inspections on and around Supplier's manufacturing facilities. Supplier  
 agrees to implement, at no cost to Intel, reasonable recommendations of  
 safety and fire inspectors consistent with local laws and Supplier's  
 company procedures to eliminate the risk of fire or hazard to  
 personnel, equipment, materials and work in process. Intel shall  
 conduct such inspections so as to minimize disruptions and schedule  
 impacts to Supplier.  
  
14.6 All insurance required hereunder shall be written by reputable  
 companies acceptable to Intel.  
  
15.0 CONFIDENTIALITY AND PUBLICITY  
  
15.1 During the course of this Agreement, Supplier may be provided access to  
 Intel's confidential information and materials. Supplier agrees to  
 maintain such information in accordance with the terms of this  
 Agreement and any applicable separate nondisclosure agreement between  
 Intel and Supplier. At a minimum, Supplier agrees to maintain such  
 information in confidence, to take all reasonable precautions to  
 prevent unauthorized disclosure, and to use such information only  
 within the scope of this Agreement until the information becomes  
 publicly available through no fault of Supplier. Supplier represents  
 that no information disclosed by Supplier to Intel, in any form  
 whatsoever, is the confidential information of any corporation,  
 individual or association not a party to this Agreement.  
  
15.2 Supplier agrees to maintain all specifications, equipment, tooling  
 costs/pricing, materials, drawings, schematics, technical information  
 and all related materials, reports, Forecasts, or documentation  
 furnished by Intel or generated by Supplier, (including IPI), during  
 performance of this Agreement, in confidence. Supplier agrees to use  
 such specifications, drawings, schematics, technical information and  
 other material only for performance of this Agreement. If Supplier's  
 employees or representatives are granted access by Intel to any of  
 Intel's computer networks or systems, Supplier shall treat all of  
 Intel's data and information accessed from such systems in the same  
 manner other described herein. In addition, Supplier, its employees  
 and representatives shall not use or disclose for any purpose any  
 aspect or portion of third party data or information which it may  
 encounter by virtue of access to Intel's computer networks. Supplier  
 shall not place any Intel confidential information on any unsecured  
 network such as the "Internet."  
  
  
  
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15.3 The parties agree that neither will disclose the existence of this  
 Agreement, nor any of the details, to any third party without the  
 specific written consent of the other. If disclosure of this Agreement  
 or any of the terms hereof is required by applicable law, rule or  
 regulation, or is compelled by a court or governmental agency,  
 authority or body: (i) the parties shall use all legitimate and legal  
 means available to minimize the disclosure to third parties of the  
 content of the Agreement, including without limitation seeking a  
 confidential treatment request or protective order; (ii) the disclosing  
 party shall inform the other party at least ten business days (i.e.,  
 not a Saturday, Sunday or a day on which banks are not open for  
 business in the geographic area in which the non-disclosing party's  
 principal office is located) in advance of the disclosure; and (iii)  
 the disclosing party shall give the other party a reasonable adequate  
 opportunity to review and comment upon the disclosure, and any request  
 for confidential treatment or a protective order pertaining thereto,  
 prior to making such disclosure.  
  
15.4 During the course of an agreement between Supplier and Intel, Intel may  
 have or may be provided access to other confidential information and  
 materials of the Supplier. Intel agrees to protect such information in  
 accordance with the terms of a Confidential Non-Disclosure Agreement  
 ("CNDA") between the Parties.  
  
15.5 The obligations stated in this Section (15) shall survive the  
 expiration or termination of this Agreement.  
  
16.0 LIMITATION OF LIABILITY  
  
 INTEL WILL NOT BE LIABLE UNDER THIS AGREEMENT FOR ANY INCIDENTAL,  
 CONSEQUENTIAL, OR SPECIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS  
 OF PROFITS, BUSINESS INTERRUPTIONS, OR LOSS OF USE, IRRESPECTIVE OF  
 WHETHER INTEL HAS ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH  
 DAMAGES.  
  
17.0 INDEMNIFICATION  
  
17.1 Supplier agrees to protect, defend, indemnify and hold Intel harmless  
 from and against any and all claims, liabilities, demands, penalties,  
 forfeitures, suits, judgments and the associated costs and reasonable  
 expenses (including attorney's fees), which Intel may hereafter incur,  
 become responsible for or pay out as a result of death, personal  
 injury, or bodily injury to any person, destruction or damage to any  
 property, non-compliance with applicable labor and employment laws,  
 contamination of or adverse effects on the environment and any clean up  
 costs in connection therewith, or any violation of governmental law,  
 regulation, or orders, caused, in whole or in part, by (a) Supplier's  
 breach of any term or provision of this Agreement, (b) any negligent or  
 willful acts, errors or omissions by Supplier, its employees, officers,  
 agents, representatives or sub-contractors in the performance of this  
 Agreement, or (c) Product(s) manufactured by Supplier's or services  
 provided by Supplier not according to specifications.  
  
17.2 Intel agrees to protect, defend, indemnify and hold Supplier harmless  
 from and against any and all costs and expenses (including attorney's  
 fees) which Supplier may hereafter incur, become responsible for or pay  
 out as a result of death, personal injury and bodily injury proximately  
 caused by the negligence or willful acts or omissions by Intel or its  
 employees.  
  
18.0 HAZARDOUS MATERIALS  
  
18.1 If Product(s) or services provided hereunder include hazardous  
 materials as defined by relevant local, state, and national law,  
 Supplier represents and warrants that Supplier and its personnel  
 providing services to Intel understand the nature of and hazards  
 associated with the design and/or service of Product(s) including  
 handling, transportation, and use of such hazardous materials, as  
 applicable to Supplier. Supplier assumes all liability resulting from  
 Supplier's actions  
  
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 in connection with (i) providing such hazardous materials to Intel, or  
 (ii) the use of such hazardous materials in providing services to  
 Intel.  
  
18.2 Upon request from Intel, Supplier shall provide Intel with material  
 safety data sheets and any other documentation reasonably necessary to  
 enable Intel to comply with applicable laws and regulations.  
  
18.3 Supplier hereby certifies that Product(s) supplied to Intel do not  
 contain and are not manufactured with any ozone depleting substances,  
 as those terms are defined by law.  
  
19.0 CUSTOMS CLEARANCE AND EXPORT  
  
19.1 Upon Intel's request, Supplier shall promptly provide Intel with a  
 statement of origin for all Product(s) and with applicable customs  
 documentation for Product(s) wholly or partially manufactured outside  
 of the country of import.  
  
19.2 In the event Product or any technical information is exported from the  
 United States or exported/re-exported from a foreign destination by  
 Supplier, Supplier shall insure that the distribution and  
 export/re-export of product is in compliance with all laws,  
 regulations, orders, or other restrictions of the U.S. Export  
 Administration Regulations. Supplier agrees that neither it nor any of  
 its subsidiaries will export/re-export any technical data, process,  
 product, or service, directly or indirectly to any country for which  
 the United States government or any agencies thereof requires an export  
 license or other government approval without first obtaining such  
 license or approval.  
  
20.0 CONSIGNMENT PROVISIONS  
  
20.1 CONSIGNED INVENTORY IDENTIFICATION AND USE  
  
 Supplier shall segregate and conspicuously xxxx materials, tools, and  
 equipment consigned to Supplier by Intel pursuant to this Agreement  
 (hereinafter referred to as "Consigned Inventory") as Intel property,  
 and shall use such materials exclusively for the performance of  
 services in accordance with this Agreement.  
  
20.2 SECURITY INTEREST  
  
 Supplier shall keep the Consigned Inventory free from liens or  
 encumbrances of any kind. Intel retains a security interest in the  
 Consigned Inventory, and any proceeds or after-acquired property  
 pursuant to the Uniform Commercial Code. Supplier agrees to cooperate  
 with Intel in signing and filing any financing statements or other  
 documents which Intel may deem necessary to protect and perfect its  
 title and security interest in the Consigned Inventory as provided  
 herein. Intel may notify other creditors of Supplier who have filed  
 financing statements covering Intel's inventory that Intel claims title  
 to the Consigned Inventory.  
  
20.3 RECORD KEEPING, INSPECTION AND AUDIT OF CONSIGNED INVENTORY  
  
20.3.1 Supplier shall account for 100% of any inventory within Supplier's  
 facility. Supplier shall perform scheduled physical cycle counts of all  
 such inventory according to mutually agreeable procedures. Intel  
 reserves the right to observe and audit cycle counts. Supplier shall  
 provide, within one (1) working day, results of the cycle counts. In  
 addition, Supplier shall provide, within one (1) working day,  
 appropriate records of all receipts, shipments, and returns in such  
 consigned inventory. Supplier shall immediately notify Intel of any  
 quantity or part number variance detected in the cycle count.  
  
  
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20.3.2 Intel reserves the right to audit Supplier's accounting procedures at  
 Supplier's facility with 24 hours notice. In the event of a discrepancy  
 between the records of Supplier and the records of Intel regarding the  
 Consigned Inventory, the records of Intel shall be presumed correct and  
 Supplier shall be responsible for any shortages in the Consigned  
 Inventory unless Supplier objects in writing with substantiating  
 documentation. Intel shall have the right to inspect and audit the  
 Consigned Inventory at all reasonable times.  
  
20.3.3 Supplier agrees to implement and adhere to the following loss control  
 measures:  
  
a) Receipt Verification - All Consigned Inventory shall be verified for  
 part number and quantity accuracy. Upon verification, the Consigned  
 Inventory shall be immediately moved by Supplier to a secured area such  
 as a locked cage. Supplier shall immediately notify Intel of receipt of  
 consigned inventory and verify part number and count accuracy. In the  
 event of a variant, Intel is to be notified immediately and such  
 variants must be confirmed by Intel. In the event of a discrepancy  
 between the records of the Supplier and the records of Intel regarding  
 the consigned inventory, the records of Intel shall be presumed  
 correct. The Supplier shall be responsible for any shortages in the  
 consigned inventory unless Supplier can produce substantiating  
 documentation that proves otherwise.  
  
b) Proper Segregation - Consigned Inventory shall be segregated from the  
 materials of other Supplier customers at all times, and must be placed  
 in a secured area. In addition, all Intel consigned inventory that has  
 been identified for use in Intel prototype products shall be kept  
 segregated from consigned inventory for Intel production products.  
  
c) Limited Access - Access to the secured area shall be limited to  
 authorized Supplier and escorted Intel employees.  
  
d) Secured Area Owners - For each shift, one (1) Supplier employee shall  
 be designated as responsible for the accuracy of the inventory at the  
 secured area.  
  
e) Security Incident Report Forms - Security Incident Report Forms shall  
 be used to explain the circumstances around any missing Consigned  
 Inventory. The form shall require a description of the missing  
 Consigned Inventory and Supplier's corrective actions taken to minimize  
 reoccurrence. A copy of all completed Security Incident Report forms  
 shall be provided to Intel immediately upon Suppliers knowledge of  
 missing Consigned Inventory.  
  
  
f) Issuing a Work Order - Consigned Inventory shall be moved from the  
 Consigned Inventory secured area to the floor only when needed for a  
 work order. The issuance of a work order to cover for Consigned  
 Inventory lost on the production floor is not allowed unless a proper  
 Security Incident Report form has been completed.  
  
g) Damaged materials - Any damaged material shall be properly segregated  
 from undamaged material quarantined for review and disposition by  
 Intel.  
  
h) Rework - Product(s) returned for rework shall be considered HVU  
 consigned material, and thereby Supplier shall control as such.  
  
20.4 RISK OF LOSS AND INSURANCE  
  
 Supplier shall bear the risk of loss or damage for all Consigned  
 Inventory, including but not limited to "line scrap" above the  
 attrition rate in addendum A, if such loss occurs as a result of  
 Supplier's manufacturing process, and is not related to defects in  
 materials as supplied by Intel. Supplier shall keep the Consigned  
 Inventory insured against theft, fire and other risks normally covered  
 by standard all-risk property insurance, in the amount of the  
 replacement value. Supplier shall bear the cost of any deductible, and  
 in the event of a loss, Supplier shall reimburse Intel for such  
  
  
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 deductible. Supplier shall provide Intel with a certificate of  
 insurance showing Intel as an additional insured, with provision for no  
 less than thirty (30) days written notice to Intel of insurance  
 termination or material changes in coverage. Supplier shall immediately  
 notify Intel in writing of a material variance, loss or damage, and  
 shall pay Intel the material replacement cost at best customer pricing.  
 Payment terms are net sixty (60) days from Supplier's receipt of  
 notification.  
  
21.0 SUPPLIER'S FACILITIES  
  
 Supplier agrees to perform all services under this Agreement at the  
 following facility or facilities:  
  
 Supplier's Facility Address(es):  
  
 XeTel Corporation  
 0000 Xxxxx Xxxxx Xx.  
 Xxxxxx, Xxxxx  
  
 Intel shall be permitted to inspect and approve any such facility to  
 evaluate security and safety policies prior to Supplier beginning  
 performance under this Agreement. Supplier shall not utilize other  
 facilities to manufacture Product(s) without prior written permission  
 from Intel.  
  
  
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21.3 FLEXIBILITY  
  
 Based on Forecasts provided by Intel, Supplier shall notify Intel when  
 capacity available to Intel drops below 150% of forecasted volumes.  
  
22.0 GENERAL  
  
22.1 Contingencies. The Supplier shall be responsible for its failure to  
 perform due to causes beyond its reasonable control such as acts of  
 God, fire, theft, war, riot, embargoes or acts of civil or military  
 authorities. If delivery is to be delayed by such contingencies,  
 Supplier shall immediately notify Intel in writing and Intel may either  
 (i) extend time of performance, or (ii) terminate the uncompleted  
 portion of the order at no cost to Intel.  
  
22.2 Assignment. Intel may assign or delegate its rights and obligations, or  
 any part thereof under this Agreement to any or all of its wholly-owned  
 subsidiaries. Supplier may not assign or factor any rights in nor  
 delegate any obligations under this Agreement or any portion thereof  
 without the written consent of Intel.  
  
22.3 Compliance With Laws. Supplier shall comply with all national, state  
 and local laws and regulations governing the manufacture,  
 transportation or sale of Product(s) or the performance of services in  
 the course of this Agreement.  
  
22.4 Governing Law. This Agreement shall be construed and interpreted  
 according to the substantive laws of the State of Delaware, U.S.A.,  
 excluding its choice of law provisions.  
  
22.5 SPECIFIC PERFORMANCE. Notwithstanding anything else contained in this  
 Agreement, Supplier hereto agree that failure to perform certain  
 obligations undertaken in connection with this Agreement would cause  
 irreparable damage, and that monetary damages would not provide an  
 adequate remedy in such event. Supplier further agrees that failure to  
 deliver against accepted Purchase Orders, or to deliver confirmed  
 supply or pricing, are such obligations. Accordingly, it is agreed  
 that, in addition to any other remedy to which the Supplier may be  
 entitled, at law or in equity, Intel shall be entitled to injunctive  
 relief to prevent breaches of the provisions of this Agreement, and an  
 order of specific performance to compel performance of such obligations  
 in any action instituted in any court of the United States or any state  
 thereof having subject matter jurisdiction. Such injunctive relief  
 shall extend until such time as Intel has established a new supplier to  
 perform the scope of work as set forth in this contract.  
  
22.6 Independent Contractor. Supplier hereto is an independent contractor.  
 Supplier does not have the authority to act for and/or bind Intel in  
 any way, or to represent that Supplier is authorized to act on the  
 behalf of Intel. Nothing herein will be construed as forming a  
 partnership or agency between the Parties.  
  
  
 15 INTEL CONFIDENTIAL  
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22.7 Notices and Requests. All notices and requests required under this  
 Agreement will be in writing, will reference this Agreement and will be  
 deemed given upon delivery if personally delivered or upon receipt if  
 sent by registered or certified mail, postage prepaid, return receipt  
 requested, to the persons and addresses listed below, which persons and  
 addresses may be modified upon subsequent written notice:  
  
 NOTICE TO INTEL: NOTICE TO SUPPLIER:  
  
 Intel Corporation XeTel Corporation  
 0000 Xxxxxxx Xxxx Xxxx 0000 Xxxxx Xxxxx Xx.  
 Xxxxxx, Xx. 00000 Austin, Texas  
  
 Attention: Purchasing Dept. Attention: Legal Department  
 Copy to: Xxxxxx Xxxxxxx Copy to: Xxxx Xxxxxxx  
  
22.8 Inspections and Audits. Intel may, for a period of (one) year following  
 termination of the Agreement, audit Supplier's relevant records to  
 verify performance by Supplier of its obligations hereunder, including  
 pricing. Intel will hold the audited records in confidence and will not  
 disclose any information derived therefrom to any other person or  
 organization without the prior written consent of Supplier. Audits will  
 be conducted not more than twice each calendar year. Audit costs will  
 be borne by Intel, unless audit uncovers a material performance  
 deviation by Supplier, in which case audit costs will by borne by  
 Supplier.  
  
22.9 Merger, Modification and Waiver. This document (including its  
 attachments) is the entire understanding between Intel and Supplier  
 with respect to the subject matter hereof and merges all prior and  
 contemporaneous agreements, dealings and negotiations. No modification,  
 alteration or amendment shall be effective unless made in writing and  
 signed by duly authorized representatives of both parties. No waiver  
 of any breach hereof shall be held to be a waiver of any other or  
 subsequent breach. All Releases issued to Supplier by Intel during the  
 term of this Agreement shall be governed only by the terms and  
 conditions of this Agreement notwithstanding any preprinted terms and  
 conditions on Supplier's acknowledgment or Intel's Release.  
  
22.10 Severability. If any provision of this Agreement is determined to be  
 invalid, illegal, or unenforceable, such determination shall not affect  
 the validity of the remaining provisions.  
  
  
 LEGAL OK  
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/s/ [ILLEGIBLE] 4/16/98  
  
  
  
INTEL CORPORATION SUPPLIER  
  
/s/ [ILLEGIBLE] /s/ W.A. PETEN  
----------------------------------- --------------------------------------  
Signature Signature  
  
 W.A. Peten  
----------------------------------- --------------------------------------  
Printed Name Printed Name  
  
 Vice President  
----------------------------------- --------------------------------------  
Title Title  
  
 4/27/98  
----------------------------------- --------------------------------------  
Date Date  
  
  
  
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 ADDENDUM "A"  
 PRODUCT SPECIFICATIONS AND  
 PRICE SCHEDULE  
  
  
PRODUCT PRICING  
  
Intel agrees to pay Supplier a price per unit of Product shipped (less the price  
of any component other than Flash Memory components that are consigned) as  
described below. Prices listed below are subject to change only after  
negotiation and mutual agreement between Intel and the Supplier.  
  
The cost of consigned Materials, lost or scrapped by Supplier due to their  
assembly manufacturing process, in excess of 0.5%, will be credited to Intel at  
"Best Customer" pricing.  
  
  
  
 PART SUPPLIER INTEL POUCH/ JEWEL UNIT  
DESCRIPTION PART NUMBER PART NUMBER ASSEMBLY TEST TUBE MTRL MTRL COST MOH PRICE  
----------- ----------- ----------- -------- ---- --------- --------- ----- -----  
   
MiC 2MB 605141-005 $2.56 $0.39 $3.56 $0.43 $6.94  
 $2.56 $0.39 $3.79 $0.45 $7.19  
MiC 4MB 605144-005 $3.31 $0.59 $4.29 $0.51 $8.70  
 $3.31 $0.59 $4.53 $0.54 $8.97  
MiC 8MB 605749-001 $3.31 $0.78 $4.29 $0.51 $8.89  
 $3.31 $0.78 $4.53 $0.54 $9.16  
VS 2MB 605334-002 IMC002FLSC $3.42 $0.55 $6.64 n/a $0.80 $11.41  
VS 4MB 605336-002 IMC004FLSC $3.46 $0.56 $6.64 n/a $0.80 $11.46  
VS 6MB 605723-001 IMC006FLSC $4.04 $0.57 $7.10 n/a $0.85 $12.56  
VS 8MB 605729-002 IMC008FLSC $3.70 $0.59 $7.12 n/a $0.85 $12.26  
VS 16MB 605730-002 IMC016FLSC $3.88 $0.65 $7.08 n/a $0.85 $12.46  
X0 0XX 605214-005 IMC002FLSA $3.76 $0.54 $11.50 n/a $1.38 $17.18  
X0 0XX 605217-003 IMC004FLSA $4.17 $0.59 $13.08 n/a $1.57 $19.41  
S2 10MB 605387-002 IMC010FLSA $5.52 $0.63 $16.15 n/a $1.94 $24.24  
S2 20MB 605389-002 IMC020FLSA $7.10 $0.65 $16.05 n/a $1.93 $25.73  
S2+ 4MB 604578-006 IMC004FLSP $5.76 $0.68 $23.89 n/a $2.87 $33.20  
S2+ 8MB 604852-004 IMC008FLSP $5.89 $0.70 $23.91 n/a $2.87 $33.37  
S2+ 16MB 604850-006 IMC016FLSP $6.06 $0.71 $23.93 n/a $2.87 $33.57  
S2+ 20MB 604579-005 IMC020FLSP $6.22 $0.73 $23.97 n/a $2.88 $33.80  
  
  
  
  
  
  
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 XXXXXXXX "X"  
 QUALITY REQUIREMENTS, PERFORMANCE STANDARDS  
  
  
  
Supplier will use the following documents as the primary criteria for Product  
acceptance:  
  
o IPC-A-610B II  
  
o Intel Workmanship Standards (DOC # 99-0007-001)  
  
o Intel Spec #XX-XXX; QA Requirements - Pre-weld  
  
o Intel Spec #XX-XXX; QA Requirements - Post-weld  
  
o Intel Spec #XX-XXX; QA Requirements - Packout  
  
o ANSI/ASQCZ1.4 Sampling Procedures and Tables for Inspection by  
 Attributes  
  
o PCMCIA Stress Test and Mechanical Requirements  
  
o Various other Intel supplied Specifications as listed in the BOMs.  
  
AOQL:  
  
Intel will accept 2500 outgoing DPM; functional, mechanical, and visual on all  
new products shipped during the first 30 days of prototype through production  
volumes. After the first 30 days have passed, Buyer will accept a maximum of 500  
outgoing DPM on subsequent shipments.  
  
Intel will accept 1000 DPM SMT assembly defects (in accordance with above  
specified documents) measured at final inspection prior to encasement of  
assembly in cover set; provided said defects do not result in functional  
failures when subjected to PCMCIA thermal and mechanical stresses.  
  
Intel may elect to impose third party Source Inspection at Supplier's expense;  
if at any time the DPM levels rise above the Intel accepted limits specified  
above for more than three consecutive assembly lots of single or mixed product;  
or, an "Epidemic Failure" occurs as described in paragraph 8.5. Intel and  
Supplier shall agree on Qualified Source Inspection provider, within 72 hours of  
imposition of this clause.  
  
FUNCTIONAL TEST:  
  
The Supplier will implement the Functional Test plan/Program provided by Intel  
for the specific line item products. Intel will reserve the right to modify the  
test procedure/program at the Supplier's location if necessary to meet DPM goals  
at no additional cost to Intel.  
  
All product that has been subjected to rework or repair during any phase of the  
assembly operation, will receive a complete functional test to ensure  
acceptability; even if it was subjected to functional test prior to the rework.  
  
QUALITY REPORTS:  
  
Supplier is to provide Intel with "First Pass" and "Final" yield reports  
reflecting all inspection and test results; including Pareto analysis of top  
three major defects. Reports are to be submitted at weekly intervals unless  
waived in writing by Intel. The Supplier is to provide process control data  
to Intel on request.  
  
Intel and the Supplier are to meet quarterly to discuss quality/performance  
issues and conduct routine audits of process and WIP.  
  
TURNKEY MATERIAL:  
  
Supplier will use Intel's Approved Manufacturers List (AML) for procurement of  
all components and mechanical piece parts. Requests for deviations from the AML  
are to be submitted in writing by the Supplier to Intel for written  
authorization.  
  
  
  
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 FOR REVIEW, INTEL RESERVES THE RIGHT TO FURTHER MODIFY  
  
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CHANGE REQUEST:  
  
All product is to be assembled and encased only at the approved facility. Any  
proposed change in location of manufacturing assembly/test facility must be  
approved in writing by the Intel. Any process changes anticipated by the  
Supplier to the production flow or process must be communicated in writing and  
approved by Intel prior to implementation. Any changes that are implemented  
prior to Intel's approval may result in product that is considered defective by  
Intel and be returned for rework, testing, or credit.  
  
GENERAL:  
  
The Supplier is to generate controlled specification documents for the assembly  
of each separate line item product identified in this document or future  
addenda.  
  
Supplier is required to maintain IS09002 certification throughout the duration  
of this agreement.  
  
  
  
 19 INTEL CONFIDENTIAL  
  
 FOR REVIEW, INTEL RESERVES THE RIGHT TO FURTHER MODIFY