

## C. Material Contracts

### Employment Agreement with Klaus Fuchs

On September 19, 2005, the Company entered into an employment agreement with Klaus Fuchs, to be ASML's Chief Operating Officer, commencing on November 1, 2005 and terminable by the Company on not less than six months' notice and by Mr. Fuchs on not less than three months' notice. The employment agreement has a term of four years, but can be extended with the consent of both parties. Mr. Fuchs is entitled to receive a payment equal to one year's base salary in the event his employment agreement is terminated by the Company. The employment agreement contains confidentiality and non-competition provisions to which Mr. Fuchs is subject.

The agreement entitles Mr. Fuchs to a base salary of EUR 400,000 per year, plus an annual cash bonus of up to 50 percent of base salary if certain performance targets are met. Pursuant to the agreement, Mr. Fuchs received 22,000 sign-on stock as well as 22,000 sign-on stock options at the first possible moment of grant and is entitled to receive annually, if certain performance targets are met, (i) stock options with a value equal to up to 25 percent of base salary and (ii) stock with a value equal to up to 25 percent of base salary. Mr. Fuchs is also entitled to pension benefits under a defined contribution plan. For additional information on Mr. Fuchs' remuneration, see Note 17 to our consolidated financial statements.

### Consultancy Agreement with David Chavoustie

Effective December 31, 2005, Mr. Chavoustie retired from our Board of Management. ASML and Mr. Chavoustie entered into a consultancy agreement, effective January 1, 2006, whereby Mr. Chavoustie will perform consulting services for ASML, including services relating to certain activities of ASML in the United States and our operations in Asia. Under the terms of the agreement, ASML will pay Mr. Chavoustie a fee of \$800 per half day segment. The agreement has a term of one year and may be extended with the consent of both parties.

## D. Exchange Controls

There are currently no limitations, either under the laws of the Netherlands or in the Articles of Association of ASML, to the rights of non-residents to hold or vote ordinary shares. Cash distributions, if any, payable in euro on Amsterdam registered shares and on ASML's Amsterdam shares may be officially transferred from the Netherlands and converted into any other currency without being subject to any Netherlands legal restrictions. However, for statistical purposes, such payments and transactions must be reported by ASML to the Netherlands Central Bank. Furthermore, no payments, including dividend payments, may be made to jurisdictions subject to certain sanctions, adopted by the government of the Netherlands, implementing resolutions of the Security Council of the United Nations. Cash distributions, if any, on New York Shares shall be paid in US dollars, converted at the rate of exchange on Euronext Amsterdam at the close of business on the date fixed for that purpose by the Board of Management in accordance with the Articles of Association. ASML has no current intention to pay dividends on its ordinary shares.

## E. Taxation

### Netherlands Taxation

The statements below represent a summary of current Netherlands tax laws, regulations and judicial interpretations thereof. The description is limited to the material tax implications for a holder of ordinary shares who is not, or is not deemed to be, a resident of the Netherlands for Netherlands tax purposes (a "Non-resident Holder"). This description does not address special rules that may apply to special classes of holders of ordinary shares and should not be read as extending by implication to matters not specifically referred to herein. As to individual tax consequences, each investor in ordinary shares should consult his or her tax counsel.

### General

The acquisition of ordinary shares by a non-resident of the Netherlands should not be treated as a taxable event for Netherlands tax purposes. The income consequences in connection with owning and disposing of our ordinary shares are discussed below.

### Substantial Interest

A person that, directly or indirectly, owns 5 percent or more of our share capital, or holds options to purchase 5 percent or more of our share capital, is deemed to have a substantial interest in our shares, respectively, our options, as applicable. A deemed substantial interest also exists if (part of) a substantial interest has been disposed of, or is deemed to be disposed of, in a transaction where no taxable gain has been recognized. Special attribution rules exist in determining the presence of a substantial interest.

***Income Tax Consequences for Individual Non-resident Holders on Owning and Disposing of the Ordinary Shares***

An individual who is a Non-resident Holder will not be subject to Netherlands income tax on received income in respect of our ordinary shares or capital gains derived from the sale, exchange or other disposition of our ordinary shares, provided that such holder:

- does not carry on and has not carried on a business in the Netherlands through a permanent establishment or a permanent representative to which the ordinary shares are attributable;
- does not hold and has not held a (deemed) substantial interest in our share capital or, in the event the Non-resident Holder holds or has held a (deemed) substantial interest in our share capital, such interest is, respectively was, a business asset in the hands of the holder;
- does not share and has not shared directly (through the beneficial ownership of ordinary shares or similar securities) in the profits of an enterprise managed and controlled in the Netherlands which (is deemed to) own(s), respectively (is deemed to have) has owned, our ordinary shares;
- does not carry out and has not carried out any activities which generate taxable profit or taxable wages to which the holding of our ordinary shares was connected;
- does not carry out and has not carried out employment activities in the Netherlands, does not serve and has not served as a director or board member of any entity resident in the Netherlands, and does not serve and has not served as a civil servant of a Netherlands public entity with which the holding of our ordinary shares is or was connected; and
- is not an individual that has elected to be taxed as a resident of the Netherlands.

***Corporate Income Tax Consequences for Corporate Non-resident Holders***

Income derived from ordinary shares or capital gains derived from the sale, exchange or disposition of ordinary shares by a corporate Non-resident Holder is taxable if:

- the holder carries on a business in the Netherlands through a permanent establishment or a permanent agent in the Netherlands (Netherlands enterprise) and the ordinary shares are attributable to this permanent establishment or permanent agent, unless the participation exemption (discussed below) applies; or
- the holder has a substantial interest in our share capital, which is not allocable to his enterprise; or
- certain assets of the holder are deemed to be treated as a Netherlands enterprise under Netherlands tax law and the ordinary shares are attributable to this Netherlands enterprise.

To qualify for the Netherlands participation exemption, the holder must generally hold at least 5 percent of our nominal paid-in capital and meet certain other requirements.

***Dividend Withholding Tax***

In general, a dividend distributed by us in respect of our ordinary shares will be subject to a withholding tax imposed by the Netherlands at the statutory rate of 25 percent.

Dividends include:

- dividends in cash and in kind;
- deemed and constructive dividends;
- consideration for the repurchase or redemption of ordinary shares (including a purchase by a direct or indirect ASML subsidiary) in excess of qualifying average paid-in capital unless such repurchase is made for temporary investment purposes or is exempt by law;
- stock dividends up to their nominal value (unless distributed out of qualifying paid-in capital);
- any (partial) repayment of paid-in capital not qualifying as capital for Netherlands dividend withholding tax purposes; and
- liquidation proceeds in excess of qualifying average paid-in capital for Netherlands dividend withholding tax purposes.

A reduction of Netherlands dividend withholding tax can be obtained if:

- the participation exemption applies and the ordinary shares are attributable to a business carried out in the Netherlands;
- the dividends are distributed to a qualifying EU corporate holder satisfying the conditions of the EU Parent-Subsidiary Directive; or
- the rate is reduced by a tax treaty.

A Non-resident Holder of ordinary shares can be eligible for a partial or complete exemption or refund of all or a portion of the above withholding tax under a tax treaty that is in effect between the Netherlands and the Non-resident Holder's country of residence. The Netherlands has concluded such treaties with the United States, Canada, Switzerland, Japan, most European Union member states, as well as many other countries. Under the Treaty between the United States of America and the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the "Tax Treaty"), dividends paid by us to a Non-resident Holder that is a resident of the United States as defined in the Tax Treaty (other than an exempt organization or exempt pension trust, as discussed below) are generally eligible for a reduction of the 25 percent Netherlands withholding tax to 15 percent or, in the case of certain United States corporate shareholders owning at

least 10 percent of our voting power, to 5 percent, provided that it does not have an enterprise or an interest in an enterprise that is, in whole or in part, carried on through a permanent establishment or permanent representative in the Netherlands to which the dividends are attributable. The Tax Treaty provides for a complete exemption from tax on dividends received by exempt pension trusts and exempt organizations, as defined therein. Except in the case of exempt organizations, the reduced dividend withholding tax rate (or exemption from withholding) can be applied at the source upon payment of the dividends, provided that the proper forms have been filed in advance of the payment. Exempt organizations remain subject to the statutory withholding rate of 25 percent and are required to file for a refund of such withholding.

A Non-resident Holder may not claim the benefits of the Tax Treaty unless (i) it is a resident of the United States as defined therein, or (ii) it is deemed to be a resident on the basis of the provisions of article 24(4) of the Tax Treaty, and (iii) its entitlement to those benefits is not limited by the provisions of article 26 (limitation on benefits) of the Tax Treaty.

In this respect it is noted that the United States and the Netherlands have agreed on a protocol to the Tax Treaty. It provides for (among others) a 0 percent dividend withholding tax rate on dividends, provided certain requirements are met. In addition, abovementioned article 26 (limitation on benefits) has been adjusted. Some requirements to the various tests mentioned in article 26 will become more severe and others will be moderated.

#### ***Dividend Stripping Rules***

Under Netherlands tax legislation regarding anti-dividend stripping, no exemption from, or refund of, Netherlands dividend withholding tax is granted if the recipient of dividends paid by us is not considered the beneficial owner of such dividends.

#### ***Gift or Inheritance Taxes***

Netherlands gift or inheritance taxes will not be levied on the transfer of ordinary shares by way of gift, or upon the death of a Non-resident Holder, unless:

(1) the transfer is construed as an inheritance or as a gift made by or on behalf of a person who, at the time of the gift or death, is deemed to be, resident of the Netherlands; or

(2) the ordinary shares are attributable to an enterprise or part thereof that is carried on through a permanent establishment or a permanent representative in the Netherlands.

For purposes of Netherlands gift and inheritance tax, an individual of Netherlands nationality is deemed to be a resident of the Netherlands if he has been a resident thereof at any time during the ten years preceding the time of the gift or death. For purposes of Netherlands gift tax, a person not possessing Netherlands nationality is deemed to be a resident of the Netherlands if he has resided therein at any time in the twelve months preceding the gift.

#### ***Value Added Tax***

No Netherlands value added tax is imposed on dividends in respect of our ordinary shares or on the transfer of our shares.

#### ***Residence***

A Non-resident Holder will not become resident, or be deemed to be resident, in the Netherlands solely as a result of holding our ordinary shares or of the execution, performance, delivery and/or enforcement of rights in respect of our ordinary shares.

#### ***United States Taxation***

The following is a discussion of the material United States federal income tax consequences relating to the acquisition, ownership and disposition of ordinary shares by a United States Holder (as defined below). This discussion deals only with ordinary shares held as capital assets and does not deal with the tax consequences applicable to all categories of investors, some of which (such as tax-exempt entities, passive foreign investment companies, banks, broker-dealers, investors owning directly, indirectly or constructively 10 percent or more of our outstanding voting shares, investors who hold ordinary shares as part of hedging or conversion transactions and investors whose functional currency is not the U.S. dollar) may be subject to special rules. In addition, the discussion does not address any alternative minimum tax or any state, local or non-United States tax consequences. The following discussion is based on United States tax laws, and judicial and administrative interpretations thereof as in effect on the date hereof, all of which are subject to change, potentially retroactively.

This discussion is based on the Internal Revenue Code of 1986, as amended to the date hereof, final, temporary and proposed Treasury Department regulations promulgated, and administrative and judicial interpretations thereof, changes to any of which subsequent to the date hereof, possibly with retroactive effect, may affect the tax consequences described herein. In addition, there can be no assurance that the Internal Revenue Service will not challenge one or more of the tax consequences described herein, and we have not obtained, nor do we intend to obtain, a ruling from the Internal Revenue Service or an opinion of counsel with respect to the United States federal income tax consequences of acquiring or holding shares. Prospective

purchasers of ordinary shares are advised to consult their tax advisers with respect to their particular circumstances and with respect to the effects of United States federal, state, local or non-United States tax laws to which they may be subject.

As used herein, the term “United States Holder” means a beneficial owner of ordinary shares that for United States federal income tax purposes is:

- an individual citizen or resident of the United States;
- a corporation or other entity treated as a corporation for United States federal income tax purposes created or organized in or under the laws of the United States or of any political subdivision thereof;
- an estate of which the income is subject to United States federal income taxation regardless of its source;
- a trust whose administration is subject to the primary supervision of a court within the United States and which has one or more United States persons who have the authority to control all of its substantial decisions.

If an entity treated as a partnership for United States federal income tax purposes owns ordinary shares, the United States federal income tax treatment of a partner in such partnership will generally depend upon the status of the partner and the activities of the partnership. A partnership that owns ordinary shares and the partners in such partnership should consult their tax advisors about the United States federal income tax consequences of holding and disposing of the ordinary shares.

#### **Taxation of Dividends**

United States Holders will include in gross income as foreign-source dividend income the gross amount of any distribution (before reduction for Netherlands withholding taxes) ASML makes out of its current or accumulated earnings and profits (as determined for United States federal income tax purposes) when the distribution is actually or constructively received by the United States Holder. Distributions will not be eligible for the dividends-received deduction generally allowed to United States corporations in respect of dividends received from other United States corporations. The amount of the dividend distribution includible in income of a United States Holder should be the U.S. dollar value of the foreign currency (e.g. euro) paid, determined by the spot rate of exchange on the date of the distribution, regardless of whether the payment is in fact converted into U.S. dollars. Distributions in excess of current and accumulated earnings and profits, as determined for United States federal income tax purposes, will be treated as a non-taxable return of capital to the extent of the United States Holder’s basis in the ordinary shares and thereafter as taxable capital gain. ASML does not maintain calculations of its earnings and profits under United States federal income tax principles.

Subject to limitations provided in the United States Internal Revenue Code, a United States Holder may generally deduct from its United States federal taxable income, or credit against its United States federal income tax liability, the amount of qualified Netherlands withholding taxes. However, Netherlands withholding tax may be deducted only if the United States Holder does not claim a credit for any Netherlands or other non-United States taxes paid or accrued in that year. In addition, Netherlands dividend withholding taxes will likely not be creditable against the United States Holder’s United States tax liability to the extent ASML is not required to pay over the amount withheld to the Netherlands Tax Administration. Currently, a Netherlands corporation that receives dividends from qualifying non-Netherlands subsidiaries may credit source country tax withheld from those dividends against Netherlands withholding tax imposed on a dividend paid by a Netherlands corporation, up to a maximum of 3 percent of the dividend paid by the Netherlands corporation. The credit reduces the amount of dividend withholding that ASML is required to pay to the Netherlands Tax Administration but does not reduce the amount of tax ASML is required to withhold from dividends.

Recently enacted United States tax legislation (the “2003 Tax Act”) reduces to 15 percent the maximum tax rate for certain dividends received by individuals through taxable years beginning on or before December 31, 2008, so long as the stock has been held for more than 60 days during the 120 day period beginning 60 days before the ex-dividend date. Dividends received from “qualified foreign corporations” generally qualify for the reduced rate. A non-United States corporation (other than a foreign personal holding company, foreign investment company, or passive foreign investment company) generally will be considered to be a qualified foreign corporation if (i) the shares of the non-United States corporation are readily tradable on an established securities market in the United States or (ii) the non-United States corporation is eligible with respect to substantially all of its income for the benefits of a comprehensive income tax treaty with the United States which contains an exchange of information program. The Tax Treaty has been identified as a qualifying treaty. Individual United States Holders should consult their tax advisors regarding the impact of the provisions of the 2003 Tax Act on their particular situations.

#### **Taxation on Sale or Other Disposition of Ordinary Shares**

Upon a sale or other disposition of ordinary shares, a United States Holders will generally recognize capital gain or loss for United States federal income tax purposes in an amount equal to the difference between the amount realized, if paid in U.S. dollars, or the U.S. dollar value of the amount realized (determined at the spot rate on the settlement date of the sale) if proceeds are paid in currency other than the U.S. dollar, as the case may be, and the United States Holder’s tax basis (determined in U.S. dollars) in such ordinary shares. Generally, the capital gain or loss will be long-term capital gain or loss if the holding period of the United States Holder in the ordinary shares exceeds one year at the time of the sale or other disposition. The deductibility of capital losses is subject to limitations for United States federal income tax purposes. Gain or