

DISTRIBUTOR AGREEMENT

This DISTRIBUTOR AGREEMENT (the "Agreement") dated as of May 14, 2004 (the "Effective Date") is made by and between **IPS, LTD.**, a corporation duly organized and existing under the laws of Korea and having its principal office at #33 Jije-dong, Pyungtaek, Kyungki-Do, Korea ("IPS") and **AVIZA TECHNOLOGY, INC.**, a corporation duly organized and existing under the laws of the State of Delaware, U.S.A. and having its principal office at 440 Kings Village Road, Scotts Valley, CA 95055 ("Aviza").

WHEREAS, Aviza previously purchased substantially all of the assets of the Thermal Division of ASML, Inc. ("ASML"), which was a party to a License Agreement with IPS ("License Agreement");

WHEREAS, IPS is a developer of certain semiconductor fabrication equipment used to deposit conductive and dielectric layers onto integrated circuit or other substrates; and

WHEREAS, IPS and Aviza desire to enter into a business arrangement so that Aviza will be granted the limited distribution right to resell IPS Products (as defined below) to certain specified third parties only as set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth below, the parties agree as follows:

INTRODUCTION

I. DEFINITIONS

As used in this Agreement, the following terms, whether used in the singular or plural, shall have the following meanings:

- A. "ALD Technology" means atomic layer deposition technique which utilizes a sequential application of reaction vapor onto a layer of substrates.
- B. "Confidential Information" means all materials, trade secrets or other information, including, without limitation, proprietary information and materials (whether or not patentable) regarding a Party's technology, products, business information or objectives, which are designated as confidential in writing by the disclosing Party, whether by letter or by the use of an appropriate stamp or legend, prior to or at the time any such material, trade secret or other information is disclosed by the disclosing Party to the other Party. Notwithstanding the foregoing to the contrary, materials, trade secrets or other information which are orally or visually disclosed by a Party, or are disclosed in writing without an appropriate letter, stamp or legend, shall constitute Confidential Information if the disclosing Party, within sixty (60) calendar days after such disclosure, delivers to the other Party a written document or documents describing the materials, trade secrets or other information. If such Confidential Information is already in the possession of the other Party as of the Effective Date, each Party shall have sixty (60) calendar days from the Effective Date to designate such information as Confidential Information.

C. “Foundational IP” means all intellectual property rights related to the IPS Technology disclosed to ASML under the License Agreement or disclosed to Aviza as of the Effective Date, including without limitation the IPS Patent Rights.

D. “Infineon Companies” means Infineon Technologies AG and its affiliates and subsidiaries, as well as Nanya Technology Corporation and Inotera Memories, Inc. For purposes hereof, “affiliates” means companies in which Infineon Technologies AG has a majority ownership interest or in which a parent company or majority-owned subsidiary of Infineon Technologies AG has a majority ownership interest.

E. “Infineon-proprietary ALD Applications” means Infineon-proprietary partial step-coverage etch barrier of Al2O3 for the formation of deep trench DRAM capacitors.

F. “IPS Intellectual Property” shall mean both (i) IPS Patent Rights and (ii) IPS Technology.

G. “IPS Patent Rights” shall mean all patents and patent applications (which for all purposes of this Agreement shall be deemed to include certificates of invention, applications for certificates of invention and utility models) throughout the world, covering or relating to the ALD Technology, including any substitutions, extensions, reissues, reexaminations, renewals, divisions, continuations or continuations-in-part, which IPS owns or controls, and under which IPS has the right to grant sublicenses to Aviza, as of the date of this Agreement and thereafter.

H. “IPS Products” in either singular or plural means any commercial apparatus, machine or equipment offered for sale by IPS for use in a semiconductor and non-semiconductor device manufacturing process for depositing thin films, wherein such a deposition is performed by the ALD Technology covered by IPS Patent Rights or which is based on IPS Technology.

I. “IPS Technology” shall mean all technical information owned or authorized to be used by IPS as of the Effective Date and thereafter, other than the IPS Patent Rights, whether patentable or otherwise, relating to the ALD Technology, and shall include all IPS Confidential Information and all Foundational IP.

J. “Ozone Process Patents” means the patents sublicensed from SEC as described in Section II.A below.

K. “Party” means either Aviza or IPS; “Parties” means, collectively, Aviza and IPS.

L. “Term” means one (1) year commencing with the Effective Date.

II. GRANT OF DISTRIBUTION RIGHT

A. Distribution Rights. IPS appoints Aviza as a distributor of IPS Products during the Term; provided that (i) Aviza may only distribute and sell IPS Products (a) to Sematech for use with the technology that Sematech jointly developed with Aviza or ASML and (b) to the Infineon Companies for use with Infineon-Proprietary ALD Applications, (ii) IPS shall not directly or indirectly sell or distribute the IPS Products that Aviza sells pursuant to subclause (a) and (b) above to Sematech and to the Infineon Companies, except through Aviza, during the

Term, (iii) the rights granted to Aviza pursuant to this Section II(A) are personal, non-transferable and non-assignable without IPS's prior written consent as set forth in Section IX.K below, and (iv) the Term may only be extended by a written instrument executed and delivered by duly authorized representatives of both Parties. Notwithstanding the foregoing, if Aviza offers to sell, or sells, any ALD products that directly compete with the IPS Products purchased under this Agreement at any time during the Term, then Sections II.A(ii), II.B, III.C and III.E shall automatically terminate. In addition, as soon as possible after the Effective Date, using all reasonable effort, but in no event later than sixty (60) days after the Effective Date, IPS shall enter into an amendment agreement to a license agreement, dated August 8, 2000, between IPS and Samsung Electronics Co., Ltd. ("SEC") (the "SEC License Agreement") with SEC, which shall be substantially in the form attached hereto as Exhibit A. Notwithstanding the foregoing, the sublicense under the Ozone Process Patents and the SEC License Agreement shall only be effective during the Term, shall not be perpetual, and shall only be used in connection with Aviza's use and sale of IPS Products, Aviza's exploitation of its rights under and to Derivative IPs (as defined below), and Aviza's use of IPS tools purchased either by ASML or by Aviza from IPS.

B. Assistance. IPS shall provide Aviza with reasonable technical assistance in connection with the IPS Products sold to Aviza hereunder, including by providing technical information needed to add subsystems or modify system functionality to meet customers' specific requirements as well as IPS's standard technical documentation that it provides its distributors generally, enabling Aviza to support its IPS Product customers and to operate any IPS tools purchased from IPS. Without limiting the foregoing, IPS agrees to provide Aviza written notice, consistent with the product change notification procedures IPS employs for its distributors generally, of any changes IPS implements to the IPS Products. All other IPS Intellectual Property not reasonably necessary for Aviza to exploit the right granted in Section II(A) or to exploit the rights and ownership privileges set forth in Section C shall be returned to IPS within thirty (30) calendar days of the Effective Date. Upon Aviza's request and at Aviza's direction, IPS agrees to incorporate the autofill command codes provided by Aviza into the IPS code to be delivered with the IPS Products for resale to the Infineon Companies. The expected delivery date will be in July, 2004. IPS acknowledges and agrees that it will have no other rights in the autofill command codes provided to it by Aviza other than to incorporate such code into the IPS Products and deliver it to the Infineon Companies at Aviza's direction.

C. Intellectual Property Ownership. IPS shall retain all ownership of the IPS Intellectual Property and IPS Confidential Information, whether or not specifically recognized or perfected under the laws of the jurisdiction in which the IPS Intellectual Property is used or licensed, and whether already in the possession of Aviza or provided under this Agreement. Aviza shall obtain no ownership rights thereto under this Agreement or based on prior possession of any of IPS' Intellectual Property or Confidential Information; provided, however, that Aviza shall own all modifications, enhancements and derivative works of the IPS Technology developed by Aviza or ASML prior to the Effective Date (the "Derivative IPs") as well as any modifications, enhancements and derivative works of the Derivative IPs that Aviza creates after the Effective Date. Notwithstanding the foregoing, the Derivative IPs specifically listed on Exhibit B as well as any modifications, enhancements and derivative works of the IPS Technology that were jointly developed by IPS, on the one hand and Aviza and/or ASML, on the other hand, shall be jointly owned by the Parties, without any right or obligation of accounting; provided, however,

that to the extent that any elements of the Derivative IPs specifically listed on Exhibit B were developed by ASML or Aviza as part of a joint development effort with a customer, then IPS will obtain no ownership or license interest in such elements.

D. Further Terms Related to Intellectual Property Rights. Subject to the terms and conditions of this Agreement, Aviza grants to IPS a perpetual, non-exclusive, non-transferable, worldwide and royalty-free license under any intellectual property rights owned by Aviza regarding all S2-related design work completed by Aviza as of the Effective Date. Furthermore, neither party shall assert any intellectual property rights with respect to any jointly-owned Derivative IPs against the other Party or any of the other Party's customers, partners, successors or assigns. In addition to the foregoing, IPS covenants that it will not assert any intellectual property rights against Aviza or any customer, affiliate, subsidiary, partners, successors or assigns of Aviza, with respect to the Foundational IP only insofar as it is directly related to Aviza's exploitation of its rights to the Derivative IPs. Aviza agrees that it will not, and will use reasonable efforts to ensure that neither its employees nor its subcontractors or agents (i) make any modifications to the IPS Products not expressly permitted by this Agreement, (ii) reverse assemble, reverse compile or otherwise reverse engineer any IPS Products in whole or in part, or (iii) make any IPS Products available to any third party except as permitted under this Agreement.

III. RIGHT TO PURCHASE

A. Purchase. During the Term of the Agreement, IPS shall offer to sell to Aviza the IPS Products. Aviza shall provide a non-binding quarterly rolling forecast of its requirements, and IPS agrees to use commercially reasonable efforts to reserve sufficient production capacity to meet such forecasted requirements.

B. Purchase Orders. Unless otherwise mutually agreed for particular orders, Aviza shall issue purchase orders to IPS to purchase the IPS Products at least four (4) months prior to the desired delivery date. Until such purchase orders are issued, Aviza shall have no obligation to purchase the IPS Products. The Parties agree that the standard terms and conditions of purchase as used previously by the Parties in Aviza's previous purchase of IPS Products from IPS, as well as the special purchase terms set forth in Exhibit C, shall govern all sales transactions for the IPS Products between the Parties.

C. Price. Throughout the Term, IPS shall offer Aviza IPS' price charged to ASML for the IPS Products or any components thereof, except that price changes can be implemented by mutual agreement due to customization of the IPS Products, and to meet customer delivery requirements appropriately.

D. Special Purchase and Sales Terms. Exhibit C sets forth special business terms in addition to the terms stated in this Agreement, which special business terms shall apply to the sale of all IPS Products to Aviza.

E. Support. IPS shall provide Aviza spare parts, defect repair and software support for the IPS Products in a manner substantially similar to the support it provided to ASML pursuant to the License Agreement between ASML and IPS.

IV. FEES

A. Fees. The pricing terms are set forth in Section III.C above.

B. Payment. All payments from Aviza are due within forty-five (45) calendar days following receipt of invoice from IPS.

V. REPRESENTATIONS AND WARRANTIES AND DISCLAIMERS

A. Authority of IPS. IPS hereby represents and warrants that (i) it has the legitimate and full authority to grant to Aviza all of the rights it grants under this Agreement, (ii) it is the sole inventor of the ALD Technology as described under the IPS Patent Rights, (iii) it is unaware of any rights superior to its rights in the ALD Technology, and (iv) it owns the entire right, title and interest in and to, or is authorized to use and sublicense, as the case may be, all IPS Intellectual Property. For the avoidance of doubt, IPS does not warrant or guarantee the patent registration of any of the patent applications for the IPS Patent Rights.

B. Performance Warranty. IPS warrants and represents that all IPS Products delivered to Aviza hereunder shall perform substantially in accordance with the applicable written specifications for a period of ninety (90) calendar days from the date of delivery to Aviza. In addition, to the extent permitted, IPS agrees to assign any third party warranties for third party components incorporated into the IPS Products sold to Aviza hereunder.

C. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, UNDER THIS AGREEMENT WITH RESPECT TO THIS AGREEMENT AND ANY RIGHTS PROVIDED HEREUNDER INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

VI. LIMITATION OF LIABILITY

EXCEPT WITH RESPECT TO EITHER PARTY'S BREACH OF THE INTELLECTUAL PROPERTY RIGHTS OF THE OTHER, ANY BREACH OF SECTION VII BY EITHER PARTY, OR ANY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF EITHER PARTY, IN NO EVENT SHALL THE PARTIES BE LIABLE TO EACH OTHER, OR ANY PERSON CLAIMING THROUGH THE OTHER PARTY, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OR LOST PROFITS, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY EVEN IF ANY REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

VII. CONFIDENTIAL INFORMATION

A. Treatment of Confidential Information. Each Party shall maintain the Confidential Information of the other Party in confidence, and shall not disclose, divulge or otherwise communicate such Confidential Information to others, or use it for any purpose, except pursuant to, and in order to carry out, the terms and objectives of this Agreement, and hereby agrees to exercise every reasonable precaution to prevent and restrain the unauthorized disclosure (except

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to the extent necessary incident to the use or sale of IPS Products) of such Confidential Information by any of its directors, officers, employees, consultants, subcontractors, sublicensees or agents. The provisions of Section VII.A shall also apply to any IPS Confidential Information that Aviza received from ASML or that it possessed prior to the Effective Date.

B. Release from Restrictions. The provisions shall not apply to any Confidential Information disclosed hereunder which: (a) was known or used by the receiving Party prior to its date of initial disclosure to the receiving Party or ASML, whichever is earlier, as evidenced by the prior written records of the receiving Party or ASML; or (b) either before or after the date of the disclosure to the receiving Party is lawfully disclosed to the receiving Party by sources other than the disclosing Party rightfully in possession of the Confidential Information; or (c) either before or after the date of the disclosure to the receiving Party or ASML, whichever is earlier, becomes published or generally known to the public, other than through the sale of IPS Products in the ordinary course, through no fault or omission on the part of the receiving Party; or (d) is independently developed by or for the receiving Party without reference to, reliance upon or use of any of the Confidential Information; or (e) is required to be disclosed by the receiving Party to comply with applicable laws, to defend or prosecute litigation or to comply with governmental regulations, provided that the receiving Party provides prior written notice of such disclosure to the other party and takes reasonable and lawful actions to avoid and/or minimize the degree of such disclosure.

In any event, both Parties shall be released from any confidential obligations under Section VII.A after a period of seven (7) years from the date of receipt of the said Confidential Information.

VIII. TERMINATION

A. Term. This Agreement shall automatically terminate at the end of the Term unless (1) renewed in writing by mutual agreement of the Parties prior to the end of the Term or (2) terminated in advance pursuant to Section VIII(B) below.

B. Termination for Breach. Aviza shall be entitled to terminate this Agreement by written notice to IPS in the event that IPS shall be in default of any of its obligations hereunder and shall fail to remedy any such default within thirty (30) calendar days after notice thereof by Aviza. IPS shall be entitled to terminate this Agreement by written notice to Aviza in the event that Aviza shall be in default of any of its obligations hereunder and shall fail to remedy any such default within thirty (30) calendar days after notice thereof by IPS. Notwithstanding anything else to the contrary, the Parties shall not terminate the Agreement solely as a result of a good faith dispute regarding payments.

C. Survival of Obligations. Notwithstanding any termination of this Agreement, the provisions of Sections II.C, II.D, V.B, VI, VII, VIII.C, VIII.D and IX shall survive and continue to be enforceable.

D. Consequences of Expiration or Termination. Upon the expiration or termination of this Agreement for any reason whatsoever each Party shall promptly return to the other Party all

written Confidential Information, and all copies thereof, whether received from the other Party or from ASML.

IX. MISCELLANEOUS

A. Force Majeure. Neither Party to this Agreement shall be responsible to the other Party for nonperformance or delay in performance of the terms or conditions of this Agreement due to acts of God, acts of governments, war, riots, strikes, accidents in transportation, or other causes beyond the reasonable control of such Party.

B. Specific Performance. Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the failure of either Party to perform its obligations under this Agreement in accordance with the terms and conditions contained in this Agreement would cause irreparable damage to the other Party for which monetary damages would not provide an adequate remedy. Accordingly, it is agreed that, in addition to any other remedy to which the Parties may be entitled, at law or in equity, the Parties shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement by the other Party, 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.

C. Publicity. No Party shall originate any publicity, news release or other public announcement, written or oral, relating to this Agreement without the prior written approval of each other Party except as otherwise required by law. Such approval shall not be unreasonably withheld.

D. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO ITS CONFLICTS OF LAW PRINCIPLES. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by binding arbitration in accordance with the International Arbitration Rules of the American Arbitration Association in proceedings to be held in Santa Clara County, California. Each Party shall bear its own expenses in connection with the arbitration. Notwithstanding the foregoing, the Parties shall be entitled to seek injunctive relief, security or other equitable remedies from any court of competent jurisdiction prior to the initiation of the arbitration proceedings.

E. Waiver. The waiver by any Party of a breach or a default of any provision of this Agreement by any other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of a Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege by such Party.

F. Notices. Any notice or other communication in connection with this Agreement must be in writing and if by mail, by certified mail, return receipt requested, and shall be effective when delivered to the addressee at the address listed below or such other address as the addressee shall have specified in a notice actually received by the addressor.

If to Aviza:

If to IPS:

H.S

Aviza Technology, Inc.
440 Kings Village Road
Scotts Valley, CA U.S.A. 95055
Attention: Jerry Cutini
Chief Executive Officer

IPS, Ltd.
#33 Jije-dong, Pyungtaek
Kyungki-Do, Korea
Attention: H.S. Chang

G. No Agency. Nothing herein shall be deemed to constitute Aviza, on the one hand, or IPS, on the other hand, as the agent or representative of the other, or as joint venturers or partners for any purpose. IPS shall be an independent contractor, not an employee, joint venturer or partner of Aviza. Neither Aviza, on the one hand, nor IPS, on the other hand, shall be responsible for the acts or omissions of the other. No Party will have authority to speak for, represent or obligate any other Party in any way without prior written authority from such other Party.

H. Entire Agreement. This Agreement and the Exhibits hereto (which Exhibits are deemed to be a part of this Agreement for all purposes) contain the full understanding of the Parties with respect to the subject matter hereof and supersede all prior understandings and writings relating thereto including, without limitation, the License Agreement. No waiver, alteration or modification of any of the provisions hereof shall be binding unless made in writing and signed by the Parties.

I. Headings. The headings contained in this Agreement are for convenience of reference only and shall not be considered in construing this Agreement.

J. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected.

K. Assignment. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that each Party may assign its rights and obligations hereunder, without the prior written consent of the other Party, to its affiliates or to any successor in interest in connection with the sale of all or substantially all of the business or assets of the assigning Party relating to the subject matter of this Agreement. If Aviza assigns the Agreement without consent as permitted above, the provisions of Sections II.A(ii), II.B, III.C, and III.E shall immediately terminate.

L. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and permitted assigns.

M. Counterparts. This Agreement may be executed by facsimile and in any number of counterparts, each of which shall be deemed an original but all of such together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their properly and duly authorized officers or representatives as of the Effective Date.

Aviza Technology, Inc.	IPS, Ltd.
By:	By: <i>H. S. Cunans</i>
Title:	Title: <i>CEO & President</i>
Date:	Date: <i>May 19 2004</i>

H.S.

EXHIBIT A
SEC LICENSE AMENDMENT

SECOND AMENDMENT
TO
LICENSE AGREEMENT
OF
AUGUST 8, 2000

This Second Amendment, made and entered into as of _____, 2004 by and between IPS ("Integrated Process Systems") Ltd., a corporation duly organized and existing under the laws of Korea and having its principal offices at #33 Jije-dong, Pyungtaek, Kyung-Do, Korea, and Samsung Electronics Co., Ltd., (hereinafter "SEC") a corporation duly organized and existing under the laws of the Republic of Korea and having its principal offices at Samsung Main Building 250, 2-Ka, Taepyung-Ro, Chung-Ku, Seoul 100-742; Korea.

WITNESSETH:

WHEREAS, the parties have executed a license Agreement dated August 8, 2000 ("Agreement") and an Amendment to License Agreement of August 8, 2000 dated February 8, 2002 (the "First Amendment"), and now desire to enter into a second amendment so as to amend certain terms therein to include a right of IPS to sublicense to Aviza Technologies, Inc.

NOW, THEREFORE, in consideration of the terms and conditions herein, the parties agree as follows:

1. Article 1.4 of the Agreement, as set forth in the First Amendment, shall be deleted, null and void and shall be replaced with the following:

1.4 "Term of License" shall mean the term of any sublicense that IPS grants to the Sublicensee as defined in new Article 1.5 herein.

2. Article 1.5 to the Agreement, as set forth in the First Amendment, shall be deleted, null and void and shall be replaced with the following:

1.5 "Sublicensee" shall mean Aviza Technology, Inc.

3. Notwithstanding any of the provisions herein the confidentiality obligations as set forth under Article 5 of the Agreement shall apply to the Sublicensee in the same manner and form.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

For and on behalf of IPS:

By: _____
Typed Name: _____
Position: _____
Date: _____

For and on behalf of SEC:

By: _____
Typed Name: _____
Position: _____
Date: _____

EXHIBIT B
DERIVATIVE IPs

Jointly-Owned Derivative IPs

The following patent applications are the only Derivative IPs under this Agreement for which the joint ownership provisions described in Section II.C of the Agreement shall apply.

- i) FP-71720, Atomic Layer Deposition of high-k metal oxides for gate and capacitor dielectrics;
- ii) FP-71721, Atomic Layer Deposition of metal silicates for high-k gate and capacitor dielectrics; and
- iii) FP-71722, Low temperature deposition of silicon oxides and silicon oxynitrides.

In addition, to the extent that any of the intellectual property rights claimed in the Derivative IPs listed above were developed by or for Aviza or ASML in conjunction with one of the following exceptions, such will not be licensed to IPS or jointly owned by IPS:

- i) Infineon-proprietary ALD Technology; and
- ii) Sematech Technology, which shall mean the technology developed by Aviza or Sematech pursuant to the Joint Development Agreement between them.

These exceptions shall not apply to any technology that IPS has independently developed or may independently develop.

EXHIBIT C
SPECIAL PURCHASE TERMS

1. IPS will sell Aviza IPS Products, and all components thereof, optimized for serving Infineon family (Infineon-proprietary ALD Applications) products in accordance with the specifications by which IPS is supplying Aviza as of the Effective Date or as the Parties may hereafter mutually agree. IPS shall not sell such Infineon-proprietary ALD-technology optimized IPS Products to any third party without the prior written consent of Aviza during the Term. Regardless of any other provision in the Agreement or in Aviza's standard purchase terms and conditions, the following payment terms shall apply to all purchases of Infineon-proprietary ALD-technology optimized IPS Units: forty percent (40%) of the purchase order shall be due upon acceptance of the purchase order, forty percent (40%) upon delivery of the IPS Products to Aviza or to the customer, and twenty percent (20%) upon acceptance of the IPS Products by the customer but no later than 90 days after delivery.

2. For IPS Products already installed at Aviza customers Sony and Elpida, IPS will continue to support those systems as requested from time to time by Aviza.

3. IPS agrees to continue to support the IPS Products already delivered to Aviza's Scotts Valley lab, including without limitation providing spare parts and software support during the Term.

4. IPS agrees to deliver the lab process module to Aviza as previously scheduled and committed.

5. These terms are in addition to and incorporate all other terms set forth in the Distributor Agreement.