

## COURTESY RECORDING

This document is being recorded solely as a courtesy to the parties. Title West assumes no responsibility for the contents hereof and makes no representation as to the effect or validity of this document.

When Recorded, Mail To:

David L. Mortensen, Esq.  
Steel Rives LLP  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111

ENT 101328:2008 PG 1 of 19  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2008 Sep 12 3:10 pm FEE 64.00 BY CS  
RECORDED FOR TITLE WEST TITLE COMPANY  
ELECTRONICALLY RECORDED

## ROADWAY EASEMENT AGREEMENT

This ROADWAY EASEMENT AGREEMENT (the "Agreement") is made and executed as of the 12<sup>th</sup> day of September, 2008, by and between (a) MICRON TECHNOLOGY, INC., a Delaware corporation ("Micron"), with offices located at 8000 South Federal Way, Boise, Idaho, 83707, and (b) ZIONS FIRST NATIONAL BANK, a national banking association ("Zions"), with a mailing address of 10 East South Temple, 5<sup>th</sup> Floor, Salt Lake City, Utah 84133, Attention: Credit Management Department.

### RECITALS

WHEREAS, Micron is the owner of a tract of real property situated in Utah County, Utah that is located adjacent to a public highway and right-of-way known as SR 92 (the "Highway"), said tract being identified, as more particularly set forth in attached Exhibit "A," as Tax Serial Nos. 11-034-0015 and 11-034-0018; for purposes of this Agreement, said tract shall be referred to in its entirety as the "Micron Property"; and

WHEREAS, Zions is the record owner of certain real property commonly referred to as the Hatchet Parcel located near the Micron Property, said property being more particularly described in attached Exhibit "B" (the "Hatchet Parcel"); and

WHEREAS, Micron desires to grant to Zions, and Zions desires to be granted, for the benefit of the Hatchet Parcel (but not for the benefit of any other persons, entities or properties whatsoever), a nonexclusive roadway easement and nonexclusive right-of-way over, across and upon a portion of the Micron Property, all subject to and in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, to these ends and in consideration of the covenants contained in this Agreement, as well as the mutual benefits to be derived herefrom, the parties hereto agree as follows:

### TERMS

#### I. Right-of-Way and Easement.

a. Micron Easement Property. Subject to the terms and conditions of this Agreement, and in further consideration of the provisions of that certain Settlement Agreement and Release of Claims, of even date herewith, by and between Micron and SunCrest, L.L.C., a Utah limited liability company ("SunCrest"), by the execution and delivery hereof, Micron hereby grants and conveys to Zions, as successor in interest to SunCrest, for the benefit of the Hatchet Parcel, a nonexclusive easement and nonexclusive right-of-way for purposes of vehicular and pedestrian ingress to and egress from the Hatchet Parcel, and for the construction and maintenance, other than at Micron's cost or expense, in accordance with this Agreement and all applicable statutes, ordinances, regulations, laws, rules and requirements of any governmental entity or quasi-governmental entity having jurisdiction over the Highway, the Micron Property, the Hatchet Parcel or (collectively, "Applicable Law"), of a roadway and associated curbs, gutters, sidewalks and related improvements, and underground electric, sewer, water, natural gas and telecommunication utility facilities, as may be reasonably necessary or appropriate in connection with the development of the Hatchet Parcel (collectively, "Hatchet Parcel Improvements").

SaltLake-400096.2 0052170-00004

**COURTESY RECORDING**  
This document is being recorded solely as a courtesy to the parties. Title West assumes no responsibility for the contents hereof and makes no representation as to the effect or validity of this document.

upon, over, across and under the western-most eighty-four (84) feet of the Micron Property (the "Micron Easement"), the southern boundary of the Micron Easement being contiguous with the northern right-of-way boundary of the Highway, and the northern boundary of the Micron Easement being contiguous with the northern boundary of the Micron Property (the "Micron Easement Property"); provided, however, that (i) Micron shall not be responsible for, and shall have absolutely no obligation to pay, any costs, fees, charges or expenses or any other amounts, of any kind whatsoever, pertaining to or associated with the construction or maintenance of the Roadway Improvements, (ii) except as set forth in that certain Reciprocal Roadway Easement Agreement of even date herewith, in no event shall the Micron Easement benefit any properties other than the Hatchet Parcel, including without limitation that certain parcel located adjacent to the northern boundary of the Micron Property, presently owned by DJ Investment Group, LLC, a Utah limited liability company ("DJI"), and identified by the records of the Recorder of Utah County, Utah (the "Recorder") as tax serial number 11:030:0018 (as more particularly described in said records, the "DJI Property"), or that certain parcel located adjacent to the southern boundary of the Hatchet Parcel, presently owned by the Janice Peck Trust, w/a/d June 5, 1980 ("Peck Trust") and identified by the records of the Recorder as tax serial number 11:030:0013 (as more particularly described in said records, the "Peck Property"), and (iii) if any governmental entity or quasi-governmental entity shall require any of the Roadway Improvements to be constructed outside the Micron Easement Property due to topographical reasons or the provisions of Applicable Law, Zions shall immediately so notify Micron in writing, whereupon, the provisions of subparagraph 1 b. (ii), below, shall apply.

b. Road Construction. Micron acknowledges that Zions may use the Micron Easement for the location of a private and/or public road ("Road") to be constructed by Zions or such other person or entity authorized by Micron (the "Road Constructor") and if public, cause the Road to be dedicated to a governmental entity, including, but not limited to the Utah Department of Transportation, Utah County, Draper City or Lehi City (in any or all cases, the "Government"). If and when Zions is prepared to design and construct the Road, the following provisions apply:

(i) Slope and Construction Easements. Zions shall use all commercially reasonable efforts, even at a greater expense, to design and construct the Road without slope easements ("Slope Easements") or a temporary construction easement ("Temporary Construction Easement") (collectively, "Slope and Temporary Construction Easements"). To the extent that, despite Zions' commercially reasonable efforts, the Government requires Slope Easements and/or a Temporary Construction Easement for construction of the Road, Micron shall grant to Zions the necessary Slope Easements and/or a 180-day Temporary Construction Easement allowing for construction of the road within a 180-day period beginning on the day Zions breaks ground for construction of the Road, but only to the extent required by the Government. If the Government requires Slope or a Temporary Construction Easement for construction of the Road, before Micron shall be required to grant the Slope and/or Temporary Construction Easements, Zions shall notify Micron of the Government's requirement and provide an opportunity for Micron to consult with the Government about the requirement. In no event shall the Slope and Construction Easements when combined with the Micron Easement exceed or go outside of the western-most 120 feet of the Micron Property. Zions agrees, at Zions' sole cost and expense, or agrees to cause the Road Constructor, at the Road Constructor's sole cost and expense, to restore all property affected by any Temporary Construction Easement to its pre-construction status following completion of the Road. Also, Zions shall, at Micron's sole discretion, purchase any and all Micron Property outside the Micron Easement used for the Slope Easements from Micron at such properties' then current fair market value as determined by a licensed MAI appraiser chosen by Micron.

(ii) Minor Relocation. Zions shall use all commercially reasonable efforts, even at a greater expense, to design and construct the Road within the Micron Easement as defined above. To the extent that, despite Zions' commercially reasonable efforts, the Government requires minor relocation of the Road outside of the Micron Easement, Micron shall consent to relocation of the Micron Easement and relocation of the Road to the extent required by the Government. In no event shall relocation of the Micron Easement and/or Road exceed or go outside of the western-most 120 feet of the Micron Property. As a condition precedent for Micron's consent to relocating the Micron Easement and the Road, Zions shall, at Micron's sole discretion, purchase any portion of Micron's property "severed"

by the new location (i.e., that portion between the new location and the Micron property line to the west) and to compensate Micron for all other costs and damages incurred by Micron caused by the relocation. For purposes of the preceding sentence, the value of the "severed" property that will serve as the purchase price to be paid by Zions to Micron for such "severed" property and any damages incurred by Micron in connection therewith shall be determined by a licensed MAI appraiser chosen by Micron.

c. Dedication of the Road. If and when the Road is constructed and accepted by the Government for public dedication, Micron shall, as and when required by the Government, execute a Quit Claim Deed for dedication of the Road to the Government.

2. General Provisions. Subject to the limitations set forth in Paragraph 3, below, and elsewhere in this Agreement, the Micron Easement granted under Paragraph 1, above, shall (a) be appurtenant to and shall pass with title to each portion of the Hatchet Parcel, and shall in no event be separated therefrom; (b) bind and burden the Micron Easement Property and every person having any fee, leasehold, mortgage lien or other interest in any portion of the Micron Easement Property, however acquired, including without limitation, by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or other means; (c) constitute a covenant running with the land; and (d) inure to the benefit of the Hatchet Parcel and its owners and their respective successors and assigns.

3. Limitations on the Micron Easement Generally. The Micron Easement and the rights granted to Zions hereunder shall be subject to and/or limited as follows:

a. Zions acknowledges and agrees that (i) its exercise of the rights and privileges granted under this Agreement is and shall be subject to all matters of record pertaining to, and all physical conditions of, the Micron Easement Property, (ii) Micron makes no representation or warranty whatsoever pertaining to title or physical condition of the Micron Easement Property, other than that Micron is, subject to all matters of record, the owner of the Micron Easement Property and that Micron has the right and authority to grant the Micron Easement in accordance herewith, (iii) Zions' exercise of any rights or privileges granted under this Agreement shall be undertaken by Zions at its sole risk, cost and expense, (iv) no right, title or interest in or to any water rights, whether appurtenant to the Micron Easement Property or otherwise, nor any right to use or appropriate any surface or underground waters, whether originating on or under the Micron Easement Property or otherwise, is granted under this Agreement, and (v) Zions shall not conduct any underground drilling operations whatsoever upon or under the Micron Easement Property.

b. Zions shall be solely responsible for and shall procure, at Zions' sole cost and expense, such other or further easements or rights-of-way over and across properties near or adjacent to the Micron Property and the Hatchet Parcel (including without limitation the DJI Property, the Peck Property and the Highway) that may be necessary or appropriate for Zions' use of the Micron Easement and the exercise of such rights and privileges.

c. Zions shall, subject to and in accordance with the terms and conditions of this Agreement, timely (i) initiate and complete the "Roadway Improvements Plans" (as defined below), (ii) procure and deliver to Micron the "Roadway Improvements Bond" (as defined below), and (iii) construct, repair and maintain the Roadway Improvements.

d. No portion of the Micron Easement Property may be used in violation of the applicable ordinances, laws and regulations of any governmental or quasi-governmental body having jurisdiction over the Micron Property or the Highway or for any use that is inconsistent with the provisions of this Agreement.

e. The Micron Easement shall not be exercised in any manner that substantially interferes with (i) the purposes for which the Micron Easement Property is to be used as provided herein, or (ii) any other rights or easements relating to the Micron Property or any part thereof. Subject to the

terms and conditions of this Agreement, Micron shall not exercise any such rights relating to the Micron Easement Property to obstruct Zions' access to the Highway via the Micron Easement Property.

f. Any governmental or quasi-governmental body having jurisdiction over the Micron Property or the Highway and any private or public utility company serving the Micron Property shall have the right, at any time and from time to time, to access and to ingress and egress over and across any of the Micron Easement Property for purposes of providing police and fire protection, and providing any other governmental, municipal or utilities services.

g. Micron shall retain the right, in its sole discretion, to grant permits, licenses and easements over, across, upon and under the Micron Easement Property to any person or entity and for any purpose not inconsistent with the rights and privileges granted to Zions hereunder.

h. Except in connection with the construction of the Road in accordance with this Agreement, Zions shall not suffer or permit the Micron Easement Property to be used for the parking of any vehicles or for the storage of construction materials or any other property, or for the staging of construction, maintenance or repair work or any other work or activity.

i. Until the Road is dedicated to the Government, the Micron Easement shall not be construed as creating any rights in or for the benefit of the general public, or be deemed to be a gift or dedication of any part of the Micron Property or the Micron Easement Property, in whole or in part, to the general public or for any public use whatsoever.

j. This Agreement and the rights and privileges granted hereunder shall be strictly limited to the purposes expressed herein.

k. Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for pedestrian traffic regulation and control, or to prevent a public dedication or the accrual of any rights to the public or any third party as provided above, Zions shall not construct or erect any fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, that limits or impairs the free and unimpeded use of, and access to, the Micron Easement Property.

l. Zions shall not suffer or permit any lien or claim of mechanics, laborers or materialmen to be filed against the Micron Property, or any portion thereof, for any work or any labor, service or materials furnished or alleged to have been furnished in connection with any construction, maintenance, repair or other work in any way pertaining to the Roadway Improvements, whether pursuant to an agreement entered into, or alleged to have been entered into, by Zions or any of its affiliates, employees, contractors, subcontractors, representatives agents, or otherwise. Within thirty (30) days after the date of the filing or recording of any such lien, Zions shall cause the same to be paid and discharged of record, or, if Zions or such other responsible party contests the amount allegedly due or the right of the lien or to make its lien claim, Zions shall cause a bond for at least 150% of the amount of the disputed lien claim to be issued in favor of Micron to protect Micron from any damage resulting from such lien or claim during the entire time of any proceeding in which Zions or such responsible party contests the lien; provided, however, that, in any event, any such contest shall be initiated, conducted and prosecuted to completion by Zions or such responsible party with all due diligence, and Micron shall have the right, but not the obligation, to appear or seek intervention in any such contest, with counsel acceptable to Micron, for the purpose of protecting and preserving Micron's interests.

m. The use by the holders of the dominant tenements of the Micron Easement granted herein shall be limited to such uses as are described herein, which uses shall be made in such a manner as will least interfere with the use of the servient tenements by the owners and lessees thereof.

n. Should Zions fail to make any payment or to do any act as herein provided, then Micron may, but without obligation so to do and without notice to or demand upon Zions and without releasing Zions from any obligation hereof, make or do the same in such manner and to such extent as

Micron, in its sole and absolute discretion may deem necessary for such purposes, and in exercising any such powers, incur for the sole and exclusive account of Zions, any liability or expend whatever amounts in its sole and absolute discretion Micron may deem necessary therefor, and Zions shall reimburse Micron any such amounts, together with an administrative fee equal to fifteen percent (15%) of such amounts within thirty (30) days following Micron's written request therefor; provided, however, that until Zions so reimburses Micron, Micron shall have a lien, and the right and option to record against the Hatchet Parcel evidence of such a lien, in the amount so unpaid or so unaccepted and such lien shall be superior to any and all other charges, liens or encumbrances which may arise or be imposed on the Hatchet Parcel after the date of this Agreement. Any such past due and unpaid amounts shall bear interest at the rate of eighteen percent (18%) per annum, from the date which the same shall be payable to the date of payment in full.

o. Zions shall indemnify, defend and hold harmless Micron and its affiliates, shareholders, officers, directors, employees, contractors, agents, invitees, permittees and licensees (collectively, the "Micron Parties") from and against any and all claims, actions, judgments, liabilities, liens, injuries, damages, losses, costs, expenses and fees (including without limitation, attorneys' fees) arising in any manner from Zions' or its affiliates', shareholders', directors', officers', employees', contractors', agents', invitees', permittees', tenants' or licensees' (collectively, the "Zions Parties") entry upon the Micron Easement Property or the Micron Property, the exercise by the Zions Parties of any right or privilege granted under this Agreement, or the breach by the Zions Parties of any term or provision of this Agreement.

p. In connection with Zions Parties' exercise of any rights or privileges under this Agreement, the Zions Parties shall at all times comply with any and all applicable laws, rules and regulations relating to "Hazardous Materials" (as defined below). Accordingly, Zions shall not suffer or permit any release, discharge, generation, transportation, treatment, storage, disposal or other use or management on, under, above, or around the Micron Property or any other property owned by Micron, or any portion thereof, of: (a) any hazardous substances, pollutants or contaminants subject to regulation, investigation, remedial action or response claim under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, or (b) any toxic wastes, hazardous substances or petroleum products subject to regulation under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984, 96 Stat. 3221, the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., or the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et seq., or any other federal, state or local law, rule or regulation (collectively, inclusive of any oil, petroleum, wastes, substances, waste by-products and other such materials, "Hazardous Materials"). In connection with the Zions Parties', or any of their, exercise of any rights or privileges hereunder, the Zions Parties shall indemnify, defend and hold harmless the Micron Parties from and against any and all claims, judgments, liabilities, liens, damages, losses, costs, expenses and fees (including without limitation, attorneys' fees) arising out of or in any way related to (a) the presence, disposal, release, or threatened release of any Hazardous Materials, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Materials, (c) any action or lawsuit brought or threatened, settlement reached or government order relating to any such Hazardous Materials, (d) any violation of law, rule or regulation related thereto, and/or (e) any breach of this subparagraph by the Zions Parties. Furthermore, if the Zions Parties, or any of them, breach this subparagraph, the Zions Parties, at their sole cost and expense and at the direction of Micron, shall take or cause to be taken such actions as may be necessary or appropriate to treat and dispose of any Hazardous Materials in accordance with any and all applicable laws, rules and regulations relating thereto.

q. For any period of time prior to a public dedication of a Road, if, and to the extent that, due to the construction and completion of the Roadway Improvements on the Micron Easement Property as confirmed, in a writing separate from the Assessment Notice, by the assessing authority, the valuation of the Micron Property, for purposes of taxation or assessment in accordance with applicable

law, increases, or the rate or amount of taxes, fees or assessments levied against the Micron Property increases (including without limitation, due to any increased or new Highway usage fees or taxes), Zions shall be solely responsible for and shall pay to Micron within ten (10) business days after written demand therefor (together with written evidence thereof), any such additional taxes or assessments levied against the Micron Property arising from or attributable to such construction and completion of the Roadway Improvements.

r. If the Micron Easement Property or any part thereof shall be taken for any public or quasi-public use in condemnation proceedings or by any right of eminent domain or sale in lieu of condemnation, this Agreement shall terminate as of the date of such taking; provided, however, that if less than the entire Micron Easement Property shall be so taken and, in Micron's sole discretion, the Roadway Improvements (or the portion remaining) are adequate and suitable for the uses permitted by this Agreement, then, at Micron's option to be exercised by written notice to Zions within thirty (30) days following said taking, this Agreement shall continue in full force and effect as to that portion of the Micron Easement Property remaining. Any award or compensation arising out of such taking shall belong to and be paid solely to Micron except with respect to any separate award made to Zions for its easement interest in or to the Micron Easement Property and other damages or costs pursuant to a separate independent action taken by Zions against the condemning authority.

s. If, at any time, all or any portion of the Roadway Improvements or the Micron Easement Property are proposed for public dedication, Micron shall have the right to approve, in Micron's reasonable discretion, such dedication and all conditions or matters pertaining thereto, including without limitation, all agreements, surveys, plats, drawings or other instruments evidencing or pertaining to such dedication.

t. IN ADDITION TO ANY AND ALL RIGHTS AND REMEDIES MICRON MAY HAVE UNDER THIS AGREEMENT OR AT LAW OR IN EQUITY, ZIONS UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT MICRON SHALL HAVE THE RIGHT AND OPTION TO TERMINATE THIS AGREEMENT, THE MICRON EASEMENT AND ALL OTHER RIGHTS AND PRIVILEGES GRANTED HEREUNDER IF ANY VIOLATION OR BREACH OF THIS AGREEMENT REMAINS UNCURED THIRTY (30) DAYS AFTER WRITTEN NOTICE THEREOF HAS BEEN DELIVERED TO ZIONS IN ACCORDANCE HERewith, OR IF SUCH VIOLATION OR BREACH CANNOT BE CURED WITHIN SAID THIRTY (30) DAY PERIOD, ZIONS FAILS TO COMMENCE SUCH CURE WITHIN SAID THIRTY (30) DAY PERIOD OR, THEREAFTER, FAILS TO DILIGENTLY PROSECUTE SUCH CURE TO COMPLETION, IN ANY EVENT, WITHIN ONE HUNDRED TWENTY (120) DAYS AFTER SUCH NOTICE, AND UPON MICRON'S EXERCISE OF SUCH OPTION, MICRON SHALL HAVE THE UNILATERAL RIGHT, AND WITHOUT FURTHER NOTICE TO ZIONS, TO RECORD IN THE REAL ESTATE RECORDS OF UTAH COUNTY, UTAH AN INSTRUMENT SO EVIDENCING SUCH TERMINATION.

#### 4. Construction, Maintenance and Repair of Roadway Improvements.

a. Prior to any use of the Micron Easement by Zions for any purpose whatsoever, Zions shall cause the Road Constructor to retain, at the Road Constructor's sole cost and expense, such consultants, architects, engineers and/or other third parties as may be reasonably necessary and as may reasonably be acceptable to Micron, to cause such traffic and/or other studies and such other plans, specifications, drawings or, designs pertaining to that portion of the Roadway Improvements to be constructed within the Micron Easement Property to be completed in accordance with the requirements of any governmental or quasi-governmental body having jurisdiction over the Micron Property or the Highway, as well as any other requirements specified by Micron, including without limitation, a proposed construction schedule delineating estimated commencement and completion dates for the Roadway Improvements (collectively, the "Roadway Improvements Plans"). Upon completion of the Roadway Improvements Plans, Zions shall deliver the same to Micron and Micron shall have the right to review and approve such completed plans.

b. Upon Micron's approval of the Roadway Improvements Plans, and prior to any use of the Micron Easement by Zions for any other purpose whatsoever, Zions shall cause the Road Constructor to procure, at the Road Constructor's sole cost and expense, and deliver to Micron, an irrevocable performance bond, issued to, and for the benefit of, Micron by a surety acceptable to Micron in an amount and in a form acceptable to Micron insuring Zions' full, complete and timely construction and completion of the Roadway Improvements in accordance with the approved Roadway Improvements Plans and this Agreement (the "Roadway Improvements Bond").

c. Upon Micron's receipt and acceptance of the Roadway Improvements Bond, Zions shall cause the Roadway Improvements to be constructed and promptly completed, at the Road Constructor's sole cost and expense, in accordance with the Roadway Improvements Plans and this Agreement. Zions shall cause the Road Constructor to obtain, procure and maintain in full force and effect all grading, building, construction or other permits or licenses and any and all improvement or other bonds required by any governmental authority having jurisdiction over the Micron Property or the Highway for the construction of the Roadway Improvements (collectively, the "Roadway Improvements Permits"), all at the Road Constructor's sole cost and expense. Upon completion of the Roadway Improvements, Zions cause the Road Constructor to obtain and deliver to Micron, at the Road Constructor's sole cost and expense, (i) an instrument executed by its architect or engineer, in a form reasonably acceptable to Micron, certifying to Micron that the Roadway Improvements have been constructed and completed in accordance with the Roadway Improvements Plans, the Roadway Improvements Permits, all applicable law and this Agreement (the "Architect's Certification"), and (ii) appropriate lien waivers or releases, in forms acceptable to Micron issued for all labor, materials, equipment, and services provided in connection with the construction and installation of the Roadway Improvements (collectively, the "Lien Waivers"). Upon Micron's receipt and acceptance of the Architect's Certification and the Lien Waivers, Micron shall direct the surety to release the Roadway Improvements Bond. If Zions fails to deliver the Architect's Certification and the Lien Waivers to Micron prior to the date that is one hundred eighty (180) days after the estimated completion date set forth in the approved Roadway Improvements Plans, Micron shall have the right, upon thirty (30) days prior written notice to Zions, to execute, draw upon and receive the proceeds of the Roadway Improvements Bond as and to the extent necessary (in Micron's sole and absolute discretion) to construct and complete the Roadway Improvements in accordance with the Roadway Improvements Plans and this Agreement.

d. Upon completion of the Roadway Improvements in accordance with the Roadway Improvements Plans and the Roadway Improvements Permits, Zions shall cause the Road Constructor, at the Road Constructor's sole cost and expense, to maintain the Roadway Improvements in good condition and repair until the Government has accepted the Road as a public Road and during the period of any warranty with the Government or, if the Road is to remain privately owned, for the duration of the Road's existence and use. Such obligations shall, without limiting the generality thereof, include: (i) maintaining the structure and surfaces with the type of materials originally installed or of similar quality, use and durability; (ii) removing all papers, debris, mud, dirt, snow, ice, filth and refuse to the extent reasonably necessary to keep these areas in a neat, clean, orderly, safe and usable condition; (iii) placing, keeping in repair, and replacing any necessary or appropriate directional signs, striping markers and lines; (iv) operating, keeping in repair and replacing, when necessary, artificial lighting facilities as shall be required by Micron or any governmental or quasi-governmental authority having jurisdiction over the Micron Property or the Highway; and (v) causing the Roadway Improvements, as well as the use thereof, to remain at all times in compliance with the provisions of applicable law.

e. If, in connection with the use, occupation and enjoyment of the Micron Easement, or the exercise of any rights or privileges granted hereunder, landscape, hardscape, street, road, sidewalk or other Roadway Improvements or any other property or improvements situated on the Micron Property are damaged or destroyed, within thirty (30) days thereafter (or such additional reasonable time as may be required by the circumstances, not to exceed, in any event, one hundred twenty (120) days, if the repair or replacement will require more than thirty (30) days to complete, so long as Zions shall commence any such repair or replacement within such thirty (30) day period and diligently prosecute the same to completion), Zions shall repair or replace such damaged or destroyed Roadway Improvements

and/or such other improvements in a first-class professional manner, to a condition substantially identical to that existing before any such damage or destruction.

5. Non-Exclusive Use; Other Matters.

a. Exclusive use of the Micron Easement Property is expressly not granted, and the right and easement for ingress and egress in common with the grantee hereby is expressly reserved by the grantor.

b. Invalidity of any one of the covenants or restrictions set forth in this Agreement by judgment or court order shall in no way affect all other provisions, which shall remain in full force and effect.

c. Notwithstanding any other term or condition of this Agreement, neither this Agreement nor the obligations of Zions hereunder may be assigned or transferred, voluntarily; involuntarily, by operation of law or otherwise, without the prior, written consent of Micron, which consent shall not be unreasonably withheld, conditioned or delayed.

d. The captions that precede the paragraphs of this Agreement are for convenience only and shall not be deemed to be part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Agreement. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any parts thereof, and any gender shall include other genders. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership, limited liability company or other legal entity when the context so requires.

e. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

f. This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement, binding upon and inuring to the benefit of the parties hereof and their successors and assigns, notwithstanding all the parties are not signatories to the original or the same counterpart.

g. All Exhibits referred to herein and attached hereto are incorporated herein by this reference.

h. Any amendment, modification or supplement hereto shall take effect only upon the full and complete execution of such amendment, modification or supplement by both parties hereto.

i. All communications, consents, and other notices provided for in this Agreement shall be in writing and shall be effective on the date sent by receipted hand delivery, sent by confirmed facsimile, sent by nationally-recognized, overnight courier, or mailed by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

(i) If to Micron, to:

Micron Technology, Inc.  
General Counsel  
Mail Stop 507  
8000 South Federal Way,  
Boise, Idaho, 83707  
Fax No. 208-368-4540

or to such other address as Micron may designate, in writing.



(ii) If to Zions, to:

Zions First National Bank  
10 East South Temple, 5<sup>th</sup> Floor  
Salt Lake City, Utah 84133  
Attention: Credit Management Department  
Fax No. (801) 524-4726

j. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, and any other fees and costs incurred in the action or proceeding, including appeals, in addition to any other relief to which such party may be entitled.

k. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the parties.

l. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

m. The various rights and remedies of Micron herein contained shall not be considered as exclusive of any other right or remedy of such party, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity, or by statute. No delay or omission of the right to exercise any power by either party shall impair any such right or power, or be construed as a waiver of any default or as acquiescence therein.

n. This Agreement does not create any rights in any third parties, including without limitation DJI or Peck Trust.

o. The provisions of this Agreement, which by their nature, are intended to survive the termination of this Agreement, including without limitation the covenants and obligations of Zions set forth and described in subparagraphs 3l., 3n., 3o., 3p. and 3q., above, shall survive the termination of this Agreement

p. Time is of the essence in the performance of this Agreement and each and every provision thereof.

q. Except for the rights granted to Zions under this Agreement and the agreements executed concurrently herewith, Zions hereby waives, releases, relinquishes, quit-claims, disclaims and forever discharges (a) any and all claims, actions or causes of action it has or may have against Micron, whether known or unknown, fixed or contingent, that it has or may have obtained as a successor in interest to SunCrest, and (b) all rights, title, or interests in, over, to or related to any of the properties identified on Exhibit C that are currently owned by Micron, including without limitation, any claims for easements or rights-of-way over, across, under or upon such properties.

*[signature page follows]*

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative, effective as of the day and year first above written

REVIEWED  
MTI Legal



MICRON TECHNOLOGY, INC.,  
a Delaware corporation,

By: 

Print: Ronald C. Foster

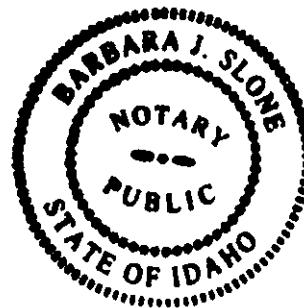
Its: C.F.O. & VP of Finance

ZIONS FIRST NATIONAL BANK,  
a national banking association

By: \_\_\_\_\_

Print: \_\_\_\_\_

Its: \_\_\_\_\_



STATE OF Idaho

COUNTY OF Ada

)

) ss.

My commission expires on Aug. 25, 2011.

The foregoing instrument was acknowledged before me this 5 day of September, 2008, by Ronald C. Foster, the CFO of MICRON TECHNOLOGY, INC., a Delaware corporation.

Barbara J. Slone  
NOTARY SIGNATURE AND SEAL

STATE OF UTAH

)

: ss.

COUNTY OF \_\_\_\_\_

)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of ZIONS FIRST NATIONAL BANK, a national banking association.

\_\_\_\_\_  
NOTARY SIGNATURE AND SEAL

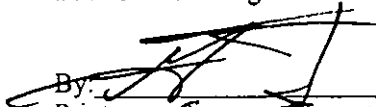
ENT 101328:2008 PG 11 of 19

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative, effective as of the day and year first above written

MICRON TECHNOLOGY, INC.,  
a Delaware corporation,

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Its: \_\_\_\_\_

ZIONS FIRST NATIONAL BANK,  
a national banking association

By:  \_\_\_\_\_  
Print: Gena Jones  
Its: Senior Vice President

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

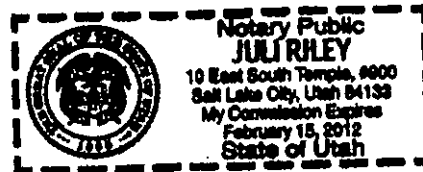
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of MICRON TECHNOLOGY, INC., a Delaware corporation.

NOTARY SIGNATURE AND SEAL

STATE OF UTAH )  
COUNTY OF Salt Lake ) ss.

The foregoing instrument was acknowledged before me this 10th day of September, 2008, by Gena Jones, the Senior Vice Pres. of ZIONS FIRST NATIONAL BANK, a national banking association.

Juli R. Riley  
NOTARY SIGNATURE AND SEAL



---

EXHIBIT "A"

---

**Description of the Micron Property**

Real property situated in Utah County, State of Utah, described as follows:

Beginning at the Southeast Corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 0°04'39" East 1026.56 feet; thence North 87°47'39" West 1329.43 feet; thence North 0°02'37" West 974.41 feet; thence South 89°57'27" West 743.38 feet; thence North 0°03'59" West 1330.47 feet; thence North 89°57'27" East 2071.17 feet; thence South 0°03'59" East 1330.47 feet to the point of beginning.

(For reference purposes only: Tax Serial No. 11:034:0015)

and

Commencing East 1320.15 feet from the Northwest corner of the Northeast quarter of Section 32, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 971.81 feet; thence North 87° 50'00" West 734.08 feet; thence North 0°05'59" West 2.06 feet; thence North 0°05'59" West 942 feet; thence East 735.2 feet to the point of beginning.

(For reference purposes only: Tax Serial No. 11:034:0018)

Subject to all covenants, rights, restrictions, encumbrances and other matters of record and all matters discoverable by a survey or physical inspection of said real property.

---

EXHIBIT "B"

---

**Description of the Hatchet Parcel**

Real property situated in Utah County, State of Utah, described as follows:

Parcel 1:

Commencing South 0°15'14" East 1107.34 feet and South 89°44'46" West 3.51 feet from the Northeast corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base and Meridian; running thence South 0°04'20" East 226.2 feet; thence South 89°51'57" West 2653.38 feet; thence South 0°19'35" East 19.23 feet; thence North 89°59'59" West 91.63 feet; thence South 0°19'35" East 543.24 feet; thence North 72°05'00" West 220.34 feet; thence North 64°12'00" West 1094.36 feet; thence North 70°40'31" West 46.14 feet; thence North 25°00'00" West 452.13 feet; thence North 33°45'00" West 520.12 feet; thence North 32°15'00" West 374.91 feet; thence North 01°39'16" East 252.93 feet; thence East 963.29 feet; thence South 1185.25 feet; thence North 89°51'57" East 3689.5 feet to the point of beginning.

(For reference purposes only: Tax Serial No. 11:030:0025)

and

Parcel 2:

Commencing at the Northeast corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base and Meridian; running thence South 0°04'20" East 1107.35 feet; thence South 89°51'57" West 3689.499 feet; thence North 1185.2316 feet; thence East 3686.5 feet; thence South 01°19'02" East 69.26 feet to the point of the beginning.

(For reference purposes only: Tax Serial No. 11:030:0024)

---

**EXHIBIT "C"**

---

**Description of the Micron Properties**

Real property situated in Utah County, State of Utah, described as follows:

**Parcel 1:**

Commencing at the Southeast corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 0°04'39" East 1026.56 feet; thence North 87°47'39" West 1329.43 feet; thence North 0°02'37" West 974.41 feet; thence South 89°57'27" West 743.38 feet; thence North 0°03'59" West 1330.47 feet; thence North 89°57'27" East 2071.17 feet; thence South 0°03'59" East 1330.47 feet to the point of beginning.

Tax Serial No. 11:034:0015

**Parcel 2:**

Commencing East 1320.15 feet from the Northwest corner of the Northeast quarter of Section 32, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 971.81 feet; thence North 87°50'00" West 734.08 feet; thence North 0°05'59" West 2.06 feet; thence North 0°05'59" West 942 feet; thence East 735.2 feet to the point of beginning.

Tax Serial No. 11:034:0018

**Parcel 3:**

Commencing at the Northeast corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 0°02'16" East 1331.51 feet; thence South 76°05'04" West 1506.15 feet; thence North 0°01'55" West 1697.38 feet; thence South 89°51'24" East 1462.02 feet to the point of beginning.

Tax Serial No. 11:029:0007

**Parcel 4:**

Commencing at the West quarter corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 0°10'54" East 1103.89 feet; thence North 64°16'59" East 30.02 feet; thence North 51°34'21" East 1034.94 feet; thence South 38°55'22" East 622.92 feet; thence South 2°49'01" West 378.35 feet; thence North 73°37'22" East 1501.45 feet; thence South 7°25'48" East 648.21 feet; thence South 76°05'04" West 83.07 feet; thence South 0°01'37" East 665.58 feet; thence North 89°50'30" West 2658.12 feet to the point of beginning.

Tax Serial No. 11:029:0033



**Parcel 5:**

Commencing at the Southeast corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 89°51'24" West 1462.02 feet; thence South 89°53'31" West 1927.99 feet; thence North 1169.98 feet; thence East 375 feet; thence North 585 feet; thence West 375.02 feet; thence South 585 feet; thence West 374.98 feet; thence South 1170 feet; thence East 375 feet; thence North 89°53'31" East 1927.99; thence South 0°01'55" East 1697.36 feet; thence South 76°05'04" West 1149.3 feet; thence North 7°25'48" West 648.21 feet; thence South 73°37'22" West 1501.45 feet; thence North 2°49'01" East 378.35 feet; thence North 38°55'22" West 622.92 feet; thence South 51°34'21" West 1034.94 feet; thence South 64°16'59" West 35.44 feet; thence North 0°04'20" West 1560.11 feet; thence North 1°19'21" West 3982.85 feet; East 3540.31 feet; South 715.98 feet; East 2900 feet; thence North 73°57'00" East 899.58 feet; thence South 19°19'47" East 3046.64 feet; thence South 61°41'09" West 642.58 feet; thence South 52°59'59" West 571.97 feet; thence South 53°02'15" West 696.69 feet; thence South 38°15'13" West 646 feet; thence South 77°12'44" West 946.52 feet; thence North 0°02'16" West 1131.78 feet to the point of beginning.

Tax Serial No.: 11:015:0006

**Parcel 6:**

Commencing at the Southwest corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 0°04'20" West 2660.93 feet; thence South 89°50'30" East 2658.13 feet; thence North 0°01'37" West 665.58 feet; thence North 76°05'04" East 2738.52 feet; thence North 0°02'16" West 199.73 feet; thence North 77°12'44" East 946.52 feet; thence North 38°15'13" East 646 feet; thence South 0°00'13" West 912.67 feet; thence North 89°49'58" East 1322.83 feet; thence South 0°02'42" West 831.57 feet; thence North 89°59'12" West 420.91 feet; thence South 45°00'48" West 374.57 feet; thence South 9°31'57" East 475.43 feet; thence South 41°13'49" East 221.15 feet; thence South 89°59'12" East 460.63 feet; thence South 0°02'42" West 925.75 feet; thence South 89°51'49" West 581.86 feet; thence South 3°50'00" West 760.59 feet; along a curve to the left (chord bears: South 10°14'40" East 194 feet, radius = 398.77 feet); thence South 24°19'21" East 490.99 feet; thence South 9°40'00" East 1184.72 feet; thence South 72°5'56" West 48.52 feet; thence South 88°0'20" West 679.12 feet; thence South 0°18'40" East 7 feet; thence South 89°41'34" West 300 feet; thence South 89°41'35" West 33.96 feet; thence North 1°24'45" East 3315.36 feet; thence North 74°14'9" West 1731.4 feet; thence North 7°33'50" West 420.33 feet; thence South 75°21'19" West 982.08 feet; thence South 14°38'8" East 368.64 feet; thence South 53°5'33" West 955.36 feet; thence North 0°0'44" West 139.81 feet; thence North 89°54'32" West 425.52 feet; thence South 0°0'44" East 321.71 feet; thence South 83°28'20" West 64.97 feet; thence South 4°2'40" East 211.83 feet; thence North 89°54'32" West 309.22 feet; thence North 89°54'21" West 830.34 feet; thence South 0°2'28" East 1340.42 feet; thence South 0°3'24" East 1240.48 feet; along a curve to Right (Chord Bears: North 81°25'36" West 77.97 feet, radius = 5679.7 feet); thence North 81°2'0" West 750.5 feet; along a curve to Left (Chord Bears: North 84°26'0" West 685.55 feet, radius = 5779.7 feet); thence North 87°50'0" West 300.29 feet; thence North 0°4'52" West 1035.44 feet; thence North 89°58'12" West 24.75 feet to the point of beginning.

Tax Serial No. 11:029:0037

**Parcel 7:**

Commencing South 1232.04 feet and East 1839.01 feet from the Southwest corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 0°03'24" West 1230.6 feet; thence North 0°02'28" West 1298.33 feet; along a curve to the right (Chord Bears: North 45°01'18" East 42.48 feet, radius=30 feet); thence South 89°54'21" East 788.26 feet; thence South 89°54'32" East 310.07 feet; thence South 4°02'40" East 2633.42 feet; thence North 89°58'01" West 162.16 feet; thence South 89°13'00" West 158 feet; thence North 87°35'00" West 155.5 feet; along a curve to the right (chord bears: North 85°32'34" West 838.99 feet, radius = 5679.7 feet) to the point of beginning.

Tax Serial No. 11:029:0038

**Parcel 8:**

Commencing North 4215.35 feet and West 2246.31 feet from the East quarter corner of Section 33, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 0°00'12" West 53.41 feet; thence South 89°54'03" East 212.26 feet; thence South 53°05'33" West 56.5 feet; thence South 83°28'20" West 168.17 feet to the point of beginning.

Tax Serial No. 11:029:0039

**Parcel 9:**

Commencing North 4215.35 feet and West 2246.31 feet from the East quarter corner of Section 33, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 83°28'20" West 50.33 feet; thence North 0°00'12" West 322.01 feet; thence South 89°54'03" East 425.52 feet; thence South 0°00'12" East 139.9 feet; thence South 53°05'33" West 204.17 feet; thence North 89°54'03" West 212.26 feet; thence South 0°00'12" East 53.41 feet to the point of beginning.

Tax Serial No. 11:029:0040

**Parcel 10:**

Commencing North 1383.21 feet and West 3483.47 feet from the East quarter corner of Section 33, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 0°03'10" West 1269.31 feet; thence North 0°01'55" West 1340.44 feet; thence South 89°53'47" East 830.33 feet; thence South 89°54'03" East 308.92 feet; thence South 4°02'40" East 12.03 feet; thence North 89°54'03" West 309.79 feet; thence 89°53'47" West 788.23 feet; thence along a curve to the left (chord bears: South 45°02'09" West 42.48 feet, radius = 30 feet); thence South 0°01'55" East 1298.34 feet; thence South 0°03'10" East 1271.63 feet; along a curve to the right (chord bears: North 79°05'15" West 12.22 feet, radius = 5679.7 feet) to the point of beginning.

Tax Serial No. 11:029:0041

**Parcel 11:**

Commencing at the East quarter corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 0°04'20" East 1330.46 feet; thence South 89°51'27" West 1327.56 feet; thence North 0°03'14" West 1328.63 feet; thence North 89°28'51" East 575.64 feet; thence South 89°59'40" East 751.51 feet to the point of beginning.

Tax Serial No. 11:030:0027

**Parcel 12:**

Commencing North 0.08 feet and West 751.51 feet from the East quarter corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running South 89°28'51" West 575.64 feet; thence North 0°03'14" West 1332.44 feet; North 89°50'51" East 1326.71 feet; thence South 0°04'20" East 229.29 feet; thence South 64°16'59" West 321.91 feet; thence South 42°13'51" West 671.19 feet; thence South 1°06'24" West 464.89 feet to the point of beginning.

Tax Serial No. 11:030:0026

**Parcel 13:**

Commencing at the East quarter corner of Section 29, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 89°59'40" West 751.51 feet; thence North 1°06'24" East 464.89 feet; thence North 42°13'51" East 671.19 feet; thence North 64°16'59" East 327.33 feet; thence South 0°10'54" West 1103.9 feet to the point of beginning.

Tax Serial No. 11:030:0023

**Parcel 14:**

Commencing South 89°52'49" West 767.13 feet from the North quarter corner of Section 27, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 52°59'59" East 571.97 feet; thence North 61°41'09" East 1340.23 feet; thence North 65°47'28" East 501.93 feet; thence South 0°10'12" West 1181.39 feet; thence South 0°06'04" West 1328.22 feet; thence South 89°50'00" West 1322.54 feet; thence South 89°49'58" West 1322.83 feet; thence North 0°00'13" East 912.67 feet; thence North 53°02'15" East 696.69 feet to the point of beginning.

Tax Serial No. 11:028:0018

**Parcel 15:**

Commencing West 3015 feet and North 1170 feet from Southeast corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base & Meridian; thence running North 585 feet; thence West 375 feet; thence South 585 feet; thence East 375 feet to the point of beginning.

Tax Serial No. 11:015:0003