

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **December 3, 2012**

**Axcelis Technologies, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**000-30941**  
(Commission  
File Number)

**34-1818596**  
(IRS Employer  
Identification No.)

**108 Cherry Hill Drive, Beverly, Massachusetts**  
(Address of principal executive offices)

**01915**  
(Zip Code)

Registrant's telephone number, including area code: **(978) 787-4000**

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement**

On December 3, 2012, Axcelis Technologies, Inc. (the "Company") and Lam Research Corporation ("Lam") entered into and consummated an Asset Purchase Agreement pursuant to which the Company sold and Lam purchased certain intellectual property rights, a dry strip processing system and other assets relating to the Company's dry strip systems business in exchange for a cash payment of up to \$10,716,009.58. The purchased intellectual property rights include, among other things, worldwide patent rights, patent applications, copyrights, industrial designs, know-how and related rights used by the Company in its dry strip business. Lam did not assume, or take any of the purchased assets subject to, any liabilities of the Company or related to the purchased assets. Under the terms of the Asset Purchase Agreement, \$2,000,000 of the purchase price is deferred and payable in installments upon, and subject to, the completion of certain transition milestones over various dates through June 30, 2014.

Concurrently with the closing under the Asset Purchase Agreement on December 3, 2012, the Company and Lam entered into a Transition Agreement pursuant to which Lam granted the Company a worldwide, non-exclusive, non-transferable, royalty free license to use the intellectual property rights sold by the Company under the Asset Purchase Agreement. The license allows the Company to make and sell dry strip wafer processing equipment for semiconductor applications for a limited transition period after the closing and to support the Company's installed base of dry strip equipment on a perpetual basis. In addition, the Company agreed to continue to hold the dry strip processing system sold under the Asset Purchase Agreement for the benefit of Lam, and to maintain the system and provide all related facilities during the transition period.

This description of the Asset Purchase Agreement and the Transition Agreement is qualified by reference to the Asset Purchase Agreement and the Transition Agreement which are filed as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

In connection with this transaction, Silicon Valley Bank, the Company's senior lender, released the purchased assets from its security interest under the Company's Second Amended and Restated Loan and Security Agreement dated April 25, 2011, as amended, and related agreements, and consented to the transaction.

**Item 7.01 Regulation FD Disclosure**

On December 4, 2012, the Company issued a press release disclosing the entry into the Asset Purchase Agreement and related matters. A copy of the Company's press release is furnished with this Current Report on Form 8-K as Exhibit 99.1 and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits**

(d) Exhibits

<u>Exhibit No.</u>	<u>Exhibit Index</u>
10.1	Asset Purchase Agreement dated December 3, 2012 between Axcelis Technologies, Inc. and Lam Research Corporation.
10.2	Transition Agreement dated December 3, 2012 between Axcelis Technologies, Inc. and Lam Research Corporation.
99.1	Joint press release by Axcelis Technologies, Inc. and Lam Research Corporation dated December 4, 2012.

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**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: December 4, 2012

Axcelis Technologies, Inc.

By: /s/ JAY ZAGER  
Jay Zager  
Executive Vice President  
and Chief Financial Officer

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## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “**Agreement**”) is entered into as of December 3, 2012, between Lam Research Corporation, a Delaware corporation (“**Buyer**”) and Axcelis Technologies, Inc., a Delaware corporation (“**Seller**”). Each such person is referred to herein as a “**party**” and jointly as the “**parties**” to this Agreement. Capitalized terms used herein without definition are defined in ARTICLE 8.

### R E C I T A L S

WHEREAS, Seller owns certain Purchased Assets more particularly described in this Agreement, used by it in the business of developing and providing manufacturing equipment designed to perform dry strip or clean processes on a silicon wafer or substrate (the “**Business**”) including, without limitation, the products listed on Exhibit A (the “**Products**”);

WHEREAS, Seller desires to sell, and Buyer desires to buy, those Purchased Assets for the consideration and on the terms and conditions described herein.

### A G R E E M E N T

In consideration of the mutual promises contained herein and intending to be legally bound, the parties agree as follows:

#### ARTICLE 1 PURCHASE AND SALE OF PURCHASED ASSETS

1.1 **Transfer of Purchased Assets.** Subject to the terms and conditions of this Agreement, on the Closing Date, Seller will sell, transfer, assign and deliver to Buyer, and Buyer will purchase from Seller, all of Seller’s right, title and interest in the following assets of Seller (the “**Purchased Assets**”):

(a) all United States, international and foreign patents, and applications therefore and all utility models, reissues, reexaminations, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof (collectively, “**Patents and Patent Applications**”) covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business, including, without limitation, the rights associated with the Patents and Patent Applications set forth on Section 3.6(a) of the Disclosure Schedule;

(b) all copyrights, copyrights registrations and applications therefor, and all other rights corresponding thereto throughout the world covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business;

(c) all industrial designs and any registrations and applications therefore throughout the world covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related, necessary for or used in the conduct of the Business;

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(d) all trade names, logos, domain names, common law trademarks and service marks, brand names, trademark and service mark registrations and applications therefore throughout the world covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business, including, without limitation, the name “Integra” and all associated logos, but excluding any Trademark Rights to the extent the same include the name “Axcelis”;

(e) all inventions (whether patentable or not), invention disclosures, improvements, modifications, enhancements, trade secrets, proprietary information, proprietary processes, license rights, specifications, know-how, works of authorship, technology, technical information, technical manuals, user manuals, drawings, designs, concepts, techniques, formulae, routines, methods, ideas, data, databases, product information, build knowledge, bills of materials, Operational Method Sheets, Processes of Record, engineering designs, engineering procedures, engineering specifications, engineering documents, engineering work papers, development work-in-progress, process recipes, notes, customer lists (including without limitation all prospective customer lists), business plans, marketing plans and other intellectual or intangible property covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related, necessary for or used in the conduct of the Business, and all documentation and materials relating to any of the foregoing, and all rights therein throughout the world;

(f) all things, ideas or concepts authored, discovered, developed, made, perfected, improved, designed, engineered, acquired, produced, conceived or first reduced to practice by Seller or any of its employees or agents related to,

necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business, in any stage of development, and all rights therein throughout the world;

(g) all software, including, without limitation, source code, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business, other than licenses to the commercially available software products from Cimetrix Incorporated listed in Section 1.1(g) of the Disclosure Schedule;

(h) any similar or equivalent rights to any of the assets referred to in subsections (a), (b), (c), (d), (e), (f) and (g) anywhere in the world, together with the goodwill appurtenant thereto and any rights, claims or choses in action relating to or deriving from any of the foregoing (collectively with subsections (a), (b), (c), (d), (e), (f) and (g), the “**Intellectual Property Rights**”); and

(i) those assets located in Seller’s lab facility that are described on Section 1.1(i) of the Disclosure Schedule, to be configured at Buyer’s direction (the “**Lab System**”); and

(j) those parts, subassemblies and other assets that are set forth on Section 1.1(j) of the Disclosure Schedule (the “**Other Assets**”).

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1.2 **Exclusion of Liabilities.** Buyer shall not assume, shall not take subject to and shall not be liable for, any Liabilities of any kind or nature, whether absolute, contingent, accrued, known or unknown, of Seller or any Affiliate of Seller (the “**Excluded Liabilities**”).

## ARTICLE 2 CLOSING/PURCHASE PRICE

2.1 **The Closing.** The closing under this Agreement (the “**Closing**”) shall take place at the offices of Buyer, 4650 Cushing Parkway, Fremont, California, on the date hereof unless another time, date or place is agreed to in writing by parties hereto.

### 2.2 **Purchase Price.**

(a) Subject to the terms and conditions of this Agreement, Buyer agrees to pay to Seller, in consideration of the acquisition of the Purchased Assets, cash in the amount of US\$10,716,009.58 (the “**Purchase Price**”) to be paid as follows:

(i) Buyer agrees to wire US\$8,716,009.58 of the Purchase Price (the “**Closing Payment**”) to Seller at the Closing in accordance with the wiring instructions set forth on Section 2.2(a)(i) of the Disclosure Schedule; and

(ii) Buyer agrees to wire a portion of the remaining US\$2,000,000 of the Purchase Price as set forth in Section 2.2(a)(ii) of the Disclosure Schedule to Seller in accordance with the wiring instructions set forth on Section 2.2(a) of the Disclosure Schedule promptly on Buyer’s reasonable satisfaction that Seller has substantially satisfied a milestone (including, in the case that Buyer reasonably determines that a milestone has been less than entirely satisfied, Buyer’s reasonable satisfaction that Seller has exerted its best efforts to satisfy the milestone) relating to such portion of the Purchase Price as set forth in such Disclosure Schedule by the end of the completion period relating to such milestone as set forth on such Schedule. Payment of the related portion of the Purchase Price shall be made within 10 days of the determination that a milestone has been satisfied.

(b) The Purchase Price shall be allocated among the Purchased Assets as provided in Section 2.2(b) of the Disclosure Schedule for purposes of complying with the requirements of Section 1060 of the Code and the regulations thereunder. Buyer and Seller agree to each prepare and file on a timely basis with the Internal Revenue Service (and applicable state tax authorities) substantially identical and supplemental Internal Revenue Service Forms 8594 (and corresponding state tax forms) consistent with Buyer’s allocation of the Purchase Price. If any tax authority challenges such allocation, the party receiving notice of such challenge shall give the other prompt written notice thereof and the parties shall cooperate in order to preserve the effectiveness of such allocation.

### 2.3 **Items to be Delivered at the Closing.** At the Closing:

(a) Seller shall deliver or cause to be delivered to Buyer:

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(i) The Bill of Sale in the form agreed upon by the parties (the “**Bill of Sale**”) duly executed by Seller;

(ii) The Patent Assignment Agreement in the form agreed upon by the parties (the “**Patent Assignment Agreement**”) duly executed by Seller;

(iii) Executed employment offer letters in the form provided by Buyer duly executed by each of the individuals identified in Section 2.3(a)(iii) of the Disclosure Schedule;

(iv) All of the Purchased Assets, including without limitation any embodiments of the Intellectual Property Rights (including without limitation all files in the possession of Seller’s attorneys), in the manner and form, and on the dates and to the locations reasonably specified by Buyer (with the shipping methodology to be specified by Buyer and shipping costs at Buyer’s expense); *provided, however*, that Seller shall hold the Lab System for and on behalf of Buyer and shall operate and maintain such Lab System for Buyer pursuant to the terms of the Transition Agreement; and *provided, further*, that Seller’s obligation to deliver the Other Assets shall be as set forth in Section 5.3; and

(v) Evidence reasonably satisfactory to Buyer of the release of the security interest in the Purchased Assets under the Second Amended and Restated Loan and Security Agreement dated April 25, 2011 and the Amended and Restated Intellectual Property Security Agreement dated March 12, 2010, each between Seller and Silicon Valley Bank, as such agreements may be amended to date.

- (i).
- (b) Buyer shall deliver or cause to be delivered to Seller the Closing Payment in accordance with Section 2.2(a)
- (c) Seller and Buyer shall each execute and deliver or cause to be delivered to the other:
- (i) the Transition Agreement in the form agreed upon by the parties (the “**Transition Agreement**”); and
- (ii) the Collaboration Agreement in the form agreed upon by the parties (the “**Collaboration Agreement**”).

### ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER

Except as otherwise indicated on the Disclosure Schedule attached hereto, Seller represents, warrants and agrees:

3.1 **Organization, Corporate Power and Authority.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business as a foreign corporation in the jurisdictions in which it conducts its businesses, except where the failure to so qualify will not materially interfere with Seller’s ability to perform its obligations under the Transaction Documents.

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Neither the character nor the location of the Purchased Assets owned or used by Seller nor the nature of the business conducted by Seller requires any license or qualification under the laws of any other jurisdiction. Seller has all requisite corporate power and authority to own and operate the Purchased Assets, to execute and deliver the Transaction Documents and to perform its obligations thereunder.

3.2 **Authorization and Approval of Agreements.** The execution, delivery and performance by Seller of the Transaction Documents, and the consummation by it of the Transactions, have been duly authorized by all necessary corporate action by Seller. This Agreement has been, and each other Transaction Document will be at the Closing, duly executed and delivered by Seller and constitutes, or will, when delivered, constitute the legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws and equitable principles relating to or limiting creditors’ rights generally.

3.3 **Effect of Agreement.** The execution, delivery and performance by Seller of the Transaction Documents, and the consummation by it of the Transactions, will not violate the certificate of incorporation or bylaws of Seller or any Law to which Seller is subject, or any judgment, award or decree or any indenture, agreement or other instrument to which Seller is a party, or by which Seller or the Purchased Assets are bound, or conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any Encumbrance of any nature whatsoever upon any of the Purchased Assets.

3.4 **Approvals.** No Approval or Order or action of or filing with any Governmental Entity or other Person is required to be obtained by Seller for the execution and delivery by Seller of the Transaction Documents or the consummation by Seller of the Transactions.

3.5 **Absence of Certain Changes.** Since June 30, 2012, Seller has not:

- (a) waived any claims or rights of Seller of substantial value relating to the Purchased Assets or the Business;

(b) sold, transferred or otherwise disposed of any of Seller's properties or assets related to or used in the conduct of the Business (real, personal or mixed, tangible or intangible) with a value of \$10,000 or more except in the ordinary course of business and consistent with past practice;

(c) disposed of or permitted to lapse any Intellectual Property Rights related to or used in the conduct of the Business or disclosed to any person other than representatives of Buyer or third parties subject to confidentiality or non-disclosure agreements (copies of which have been delivered to Buyer), any trade secret, formula, process or know-how of Seller related to or used in the conduct of the Business and not theretofore a matter of public knowledge; or

(d) agreed, whether in writing or otherwise, to take any action described in this Section 3.5.

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### 3.6 **Intellectual Property Rights.**

(a) Section 3.6(a) of the Disclosure Schedule lists the following intellectual property rights covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business:

(i) all Patents and Patent Applications, including for each the serial or patent number, country, filing and expiration date and title;

(ii) all registered trademarks and service marks, and all pending applications for registration of trademarks, including for each such trademark or service mark, the registration or application number, country, filing and expiration date; and

(iii) all registered copyrights and all applications for registration copyrights, including the registration number, country and filing and expiration date of each such copyright.

(b) The Intellectual Property Rights include all of the intellectual property rights covering, related to, necessary for or used in making, using or selling, the Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the Business, including, without limitation, all of the intellectual property rights necessary or required for, or used in, the manufacture, marketing, license, sale, offer for sale, importation or use by Buyer or an Affiliate of Buyer of the Products.

(c) Seller is the owner of all right, title and interest in and to all of the Intellectual Property Rights, free and clear of all Encumbrances, except as described in Section 3.7 to the Disclosure Schedule. Seller has not assigned or licensed the Intellectual Property Rights to any third parties, other than on a non-exclusive basis to customers solely to the extent necessary to operate the Products in the ordinary course of business for the intended purpose for which the Products were purchased from Seller.

(d) Neither (i) the execution, delivery and performance of the Transaction Documents and the consummation of the Transactions, (ii) Buyer's use of the Purchased Assets in substantially the same manner as Seller has used the Purchased Assets during the last fiscal year, nor (iii) the development, manufacture, marketing, license, sale or use by Buyer or an Affiliate of Buyer of any Intellectual Property Rights or any product embodying or incorporating any Intellectual Property Rights will (a) breach, violate or conflict with any instrument or agreement governing any of the Purchased Assets or any license or agreement to which Seller is a party, (b) cause the forfeiture or termination or give rise to a right of forfeiture or termination of any Intellectual Property Rights, (c) by virtue of the license, sale, use, embodiment or incorporation of the Intellectual Property Rights, infringe any patent or trade secret known to Seller of any other party or any copyright, trademark, service mark, or other intellectual property or other proprietary right of any other party, or (d) in any way impair the right of Buyer or any of its Affiliates to use, sell, license or dispose of, or to bring any action for the infringement of, any such Intellectual Property Rights.

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(e) All registered trademarks, service marks, patents and copyrights included in the Intellectual Property Rights are valid and subsisting. Seller has properly recorded assignments from all named inventors and other Persons necessary to perfect title to all patents and patent applications included in the Intellectual Property Rights. All fees to maintain Seller's rights in the Intellectual Property Rights, including, without limitation, patent and trademark registration and prosecution fees and all professional fees in connection therewith pertaining to the Intellectual Property Rights due and payable on or before the Closing Date, have been paid by Seller.

(f) There is no pending or threatened claim or litigation contesting the validity, ownership or right to use, sell, license or dispose of any of the Purchased Assets (including without limitation the Intellectual Property Rights), nor is Seller aware of any basis for any such claim. Seller has not received any notice asserting that any of the Purchased Assets (including without limitation the Intellectual Property Rights) or the proposed use, sale, license or disposition thereof conflicts or will conflict with, or

constitutes any infringement, interference, violation, misappropriation, breach or wrongful use of the rights of any other party, nor is there any basis for any such assertion. Seller is not a party to any proceeding or outstanding decree, order, judgment, agreement or stipulation restricting in any manner the use, transfer, or licensing by Seller of any of the Purchased Assets (including without limitation the Intellectual Property Rights), or which may affect the validity, use or enforceability of such Purchased Assets by Seller. To the best of Seller's knowledge, there is no unauthorized use, infringement or misappropriation on the part of any third party of the Purchased Assets (including, without limitation, the Intellectual Property Rights).

(g) Seller has taken reasonable steps (including, without limitation, entering into confidentiality and non-disclosure agreements with all officers and employees of and consultants to Seller with access to or knowledge of the Purchased Assets including, without limitation, the Intellectual Property Rights) to maintain the secrecy and confidentiality of, and its proprietary rights in, the Purchased Assets (including without limitation the Intellectual Property Rights).

3.7 **Material Contracts.** To Seller's knowledge, there is no Contract to which the Purchased Assets are subject or bound that is a Material Contract, except as set forth in Section 3.7 of the Disclosure Schedule. The following Contracts shall be deemed to be "**Material Contracts**": any Contract that (a) could obligate Buyer to pay any amounts to a third party in connection with Buyer's ownership or use of the Purchased Assets, (b) relates to any leasehold interest to which the Purchased Assets are subject, (c) could limit or restrict the ability of Buyer to use the Purchased Assets; (d) grants any right to any third party with respect to the Purchased Assets; or (e) was not made in the ordinary course of business.

3.8 **Tax Matters.** Seller has timely paid or will timely pay all Taxes for periods (or portions thereof) ending on or prior to the date hereof, the non-payment of which could result in Buyer becoming liable or responsible thereof or an Encumbrance being placed on the Purchased Assets.

3.9 **Title to Property; Encumbrances.** Seller has good and marketable title, free of Encumbrances, to all of the Purchased Assets and has the complete and unrestricted

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power and the unqualified right to sell, assign and deliver the Purchased Assets to Buyer, and there are no imperfections in title that might interfere with the conduct of the Business or the use of the Purchased Assets. Upon consummation of the Transactions, Buyer will acquire good and marketable title to the Purchased Assets free and clear of any Encumbrances and there exists no restriction on the use or transfer of the Purchased Assets. No Person other than Seller has any right or interest in the Purchased Assets, including the right to grant interests in the Purchased Assets to third parties. No restrictions will exist on Buyer's right to sell, resell, license or sublicense any of the Purchased Assets or engage in the Business, nor will any such restrictions be imposed on Buyer as a consequence of the transactions contemplated by this Agreement or by any agreement referenced in this Agreement.

3.10 **Legal Proceedings.** There is no Order or Action pending or threatened against Seller or any of its officers or directors relating to the Purchased Assets or the Business, or which challenges or seeks to prevent, enjoin, alter or delay any of the Transactions, nor is Seller aware of any basis for such Order or Action.

3.11 **Defaults.** Seller is not in default under or with respect to any Order of any Governmental Entity which could reasonably be expected to have a material adverse effect on any of the Purchased Assets. There does not exist any default by Seller or by any other Person, or event that, with notice or lapse of time, or both, would constitute a default under any agreement entered into by Seller as part of the operations of the Business which could have a material adverse effect on the Purchased Assets, and no notices of breach thereof have been received by Seller.

3.12 **Compliance with Law.** Seller has conducted the Business in accordance with all applicable Laws. All of the Purchased Assets conform to all applicable laws, and no notice of any violation of any Law relating to any of the Purchased Assets has been received by Seller. The forms, procedures and practices of Seller are in compliance with all such Laws, to the extent applicable.

3.13 **No Brokers or Finders.** No agent, broker, finder, or investment or commercial banker, or other Person or firm engaged by or acting on behalf of Seller or any of its Affiliates in connection with the negotiation, execution or performance of the Transaction Documents is or will be entitled to any brokerage or finder's or similar fee or other commission as a result of this Agreement or the Transactions.

3.14 **No Fraudulent Conveyance.** Seller has undertaken commercially reasonable efforts to market and sell the Purchased Assets to potentially interested buyers for the purpose of realizing a fair value for the sale of the Purchased Assets. Seller is not entering into this Agreement and the other agreements referenced in this Agreement with the intent to defraud, delay or hinder its creditors and the consummation of the transactions contemplated by this Agreement, and the other agreements referenced in this Agreement, will not have any such effect. The transactions contemplated in this Agreement or any agreements referenced in this Agreement will not constitute a fraudulent conveyance, or otherwise give rise to any right of (i) any creditor of Seller whatsoever, or (ii) any equityholder or current or former employee of Seller, to recover any of the Purchased Assets, or the value thereof, after the Closing.

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3.15 **Full Disclosure.** Seller is not aware of any facts pertaining to the Purchased Assets which have or in the future could have a material adverse effect on the Purchased Assets. Neither this Agreement nor any other agreement, exhibit, schedule being entered into or delivered pursuant to this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained in such document not misleading.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents, warrants and agrees as follows:

4.1 **Organization, Corporate Power and Authority.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the state in which it is incorporated and is duly qualified to do business as a foreign corporation in the jurisdictions in which Buyer conducts its business, except where the failure to so qualify will not materially interfere with Buyer's ability to perform its obligations under the Transaction Documents. Buyer has all requisite corporate power and authority to execute and deliver the Transaction Documents to which it is a party and to perform its obligations thereunder.

4.2 **Authorization of Agreement.** The execution, delivery and performance by Buyer of the Transaction Documents to which it is a party, and the consummation by it of the Transactions, have been duly authorized by all necessary corporate action by Buyer. This Agreement has been, and each other Transaction Document to which Buyer is a party will be at the Closing, duly executed and delivered by Buyer and constitute, or will, when delivered, constitute, the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws and equitable principles relating to or limiting creditors' rights generally.

4.3 **Effect of Agreement.** The execution, delivery and performance by Buyer of the Transaction Documents to which it is a party, and the consummation by it of the Transactions, will not violate the charter documents or bylaws of Buyer or any Law to which Buyer is subject, or any judgment, award or decree or any indenture, agreement or other instrument to which Buyer is a party, or by which Buyer or its properties are bound, or conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under, any such indenture, agreement or other instrument.

4.4 **Approvals.** No Approval or Order or action of or filing with any Governmental Entity or other Person is required to be obtained by Buyer for the execution and delivery by Buyer of the Transaction Documents or the consummation by it of the Transactions.

4.5 **Legal Proceedings.** There is no Order or Action pending against, or to the knowledge of Buyer threatened against or affecting, Buyer, which if determined adversely to Buyer, would prevent, enjoin, alter or materially delay the Transactions.

#### **ARTICLE 5 ADDITIONAL CONTINUING COVENANTS**

5.1 **Confidentiality.** All non-public information disclosed by any party (or its representatives) whether before or after the date hereof, in connection with the transactions contemplated by, or the discussions and negotiations preceding, this Agreement to any other party (or its representatives) shall be kept confidential by such other party and its representatives and shall not be used by any such Persons other than as contemplated by this Agreement, except to the extent that such information may otherwise be required by Law or to the extent such duty as to confidentiality is waived in writing by the other party.

Seller and any of its representatives or Affiliates shall not, at any time, make use of, divulge or otherwise disclose, directly or indirectly, to Persons other than Buyer, any trade secret or other proprietary data or confidential information concerning the Purchased Assets or the Business.

5.2 **All Reasonable Efforts.** Subject to the terms and conditions herein provided, each of the parties hereto agrees to use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper and advisable under applicable laws and regulations to consummate and make effective as promptly as practicable the Transactions contemplated by the Transaction Documents. If at any time after the Closing any further action is necessary or desirable to carry out the purposes of the Transaction Documents, including, without limitation, the execution of additional documents or instruments, the parties to the Transaction Documents shall take all such necessary action.

5.3 **Post-Closing Cooperation Relating to Purchased Assets.** Seller agrees to deliver the Other Assets to Buyer at such time or times following the Closing as Buyer shall specify with respect to each of the Other Assets, which shall be not later than the six month anniversary of the Closing. Subsequent to the Closing, Seller shall, from time to time, execute and



deliver, upon the request of Buyer, all such other and further materials and documents and instruments of conveyance, transfer or assignment as may reasonably be requested by Buyer to effect, record or verify the transfer to, and vesting in Buyer, of Seller's right, title and interest in and to the Purchased Assets, free and clear of all Encumbrances, in accordance with the terms of this Agreement. Seller agrees that, if requested by Buyer, it will cooperate with Buyer in enforcing the terms of any agreements between Seller and any third party involving the activities associated with the Purchased Assets, including without limitation terms relating to confidentiality and the protection of any and all Intellectual Property Rights. In the event that Buyer is unable to enforce its Intellectual Property Rights against a third party as a result of a rule or law barring enforcement of such rights by a transferee of such rights, Seller agrees to reasonably cooperate with Buyer by assigning to Buyer such rights as may be required by Buyer to enforce its Intellectual Property Rights in its own name. If such assignment still does not permit Buyer to enforce its Intellectual Property Rights against the third party, Seller agrees to initiate proceedings against such third party in Seller's name, provided that Buyer shall be entitled to participate in such proceedings and provided further that Buyer shall be responsible for the expenses of such proceedings.

5.4 **Access to Information.** Seller agrees that, if reasonably requested by Buyer, Seller shall cooperate fully with Buyer to provide reasonable access to records, personnel and facilities of Seller to the extent such access is reasonably necessary in order to transition the Purchased Assets into service of Buyer, to identify any Additional Assets (as defined below) or to properly prepare documents or reports required to be filed with Governmental Authorities or any financial statements, provided that Buyer shall be responsible for any reasonable third-party out-of-pocket expenses associated with such access, identification or preparation, if any.

5.5 **No Post-Closing Retention of Copies.** Immediately after the Closing, Seller shall deliver to Buyer or, if requested by Buyer, destroy copies of non-public documents that evidence the Intellectual Property Rights in Seller's or any Seller subsidiary's possession that are in addition to copies delivered to Buyer as part of the Closing, whether such copies are in paper form, on computer media or stored in another form; *provided*, however, that (i) Seller is entitled to possess and use such copies to the extent expressly permitted by this Agreement or as necessary to enable Seller to fulfill its obligations under the Transaction Documents, and (ii) Seller may retain and use copies of financial books and records relating to the activities associated with the Purchased Assets.

5.6 **Taxes.** Buyer shall be responsible for paying, shall promptly discharge when due, and shall reimburse, indemnify and hold harmless Seller from, any sales or use, transfer, real property gains, excise, stamp, or other similar taxes arising from, imposed on or attributable to the transactions contemplated by this Agreement. Seller shall be responsible for paying, shall promptly discharge when due, and shall reimburse, indemnify and hold harmless Buyer from any Taxes arising from, imposed on or attributable to Seller's ownership of the Purchased Assets prior to the Closing.

5.7 **Publicity.** Promptly following the Closing, Seller shall issue a press release in form and substance mutually acceptable to Seller and Buyer relating to the Transactions. Seller shall not issue any other press release, public statement or other public notice relating to this Agreement or the Transactions, without obtaining the prior consent of Buyer. Each party acknowledges that this Agreement, the Transition Agreement and the Collaboration Agreement may be reasonably determined to be material contracts of the other party for the purposes of the regulations promulgated by the Securities and Exchange Commission, and that such party may be obligated to file such agreements with the Securities and Exchange Commission. In connection with any such filing, such party shall give prompt written notice to the other party, shall endeavor to obtain confidential treatment of economic, competitively sensitive, and trade secret information, and to the extent practicable shall provide the other party an opportunity to comment on the proposed disclosure.

5.8 **Sale of Additional Assets.** During the six month period following the Closing, Buyer may identify additional assets comprising sub-systems, sub-assemblies, components and/or parts of Products, which assets were not included in the Purchased Assets ("**Additional Assets**"). If requested by Buyer, Seller agrees to sell to Buyer any such Additional Assets at a purchase price equal to Seller's fully burdened cost of manufacturing or acquiring such Additional Assets. Each such purchase and sale (each, an "**Additional Closing**") shall occur on the date or dates that Buyer shall reasonably specify with respect to each of the

Additional Assets, which shall be not later than seven months following the Closing Date or such other date as the parties shall mutually agree. At each Additional Closing, Buyer shall deliver or cause to be delivered to Buyer the purchase price of the applicable Additional Assets, and Seller shall deliver or cause to be delivered the Additional Assets in the manner and form and to the locations reasonably specified by Buyer. Any amount paid by Seller or Buyer under this Section 5.8 will be treated as an adjustment to the Purchase Price.

6.1 **Survival of Representations, Warranties and Covenants.** The representations and warranties contained in or made pursuant to this Agreement shall survive the Closing. All covenants to be performed by any party after the Closing Date shall continue indefinitely unless otherwise specified in the covenant.

6.2 **Indemnification Obligation of Seller.** Seller agrees to indemnify and hold harmless Buyer and its directors, officers, employees, Affiliates, agents, advisors and assigns (the “**Buyer Indemnified Parties**”) from and against any and all Losses of the Buyer Indemnified Parties as a result of, or based upon or arising from: (a) any inaccuracy in or breach of any representation or warranty of Seller (a “**Seller Warranty Breach**”), or breach of any covenant of Seller, made in this Agreement, including the Disclosure Schedule and Exhibits hereto but not including the Transition Agreement or the Collaboration Agreement ; (b) any Excluded Liability or any other Liability arising out of the ownership of the Purchased Assets or operation of the Business before the Closing, including any failure to pay Taxes as provided in Section 5.6; (c) any allegations or claims made or a claim brought by any securityholder or creditor of Seller based on or relating to the transactions contemplated hereby; or (d) any products sold or services provided by Seller to third parties.

6.3 **Indemnification Obligation of Buyer.** Buyer agrees to indemnify and hold harmless Seller and its directors, officers, employees, Affiliates, agents, advisors and assigns (the “**Seller Indemnified Parties**”) from and against any and all Losses of the Seller Indemnified Parties as a result of, or based upon or arising from any inaccuracy in or breach of any representation or warranty of Buyer (a “**Buyer Warranty Breach**”), or breach of any covenant of Buyer, made in this Agreement including any failure to pay Taxes as provided in Section 5.6, including the Disclosure Schedule and Exhibits hereto but not including the Transition Agreement or the Collaboration Agreement.

6.4 **Indemnification Procedure.**

(a) **Notice.** Whenever any claim shall arise for indemnification under this Agreement, the party entitled to indemnification (the “**Indemnified Party**”) shall promptly notify Seller or Buyer, as the case may be (the “**Indemnifying Party**”) of the claim in writing, which notice shall set forth in reasonable detail the facts constituting the basis for such claim and the Indemnified Party’s calculation of the Losses, to the extent then-reasonably calculable, for which it seeks indemnification. A failure to notify or to give notice as hereinabove set forth to the Indemnifying Party shall in no case prejudice the rights of the Indemnified Party under this Agreement unless the Indemnifying Party shall be prejudiced by such failure and then only to the

extent the Indemnifying Party shall be prejudiced by such failure. The Indemnified Party shall not settle or compromise any claim by a third party for which it is entitled to indemnification hereunder without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld).

(b) **Defense.** In connection with any claim giving rise to indemnity under this Agreement resulting from or arising out of any claim or legal proceeding by a party who is not a party to this Agreement, the Indemnifying Party at its sole cost and expense shall assume the defense of any such claim or legal proceeding with legal counsel approved by the Indemnified Party, which approval shall not be unreasonably withheld. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its own expense; provided, however, if (i) the named parties to any such proceeding (including any impleaded parties) include both the Indemnifying Party and the Indemnified Party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them (other than differing interests associated with the Indemnifying Party’s obligation to indemnify), or (ii) the employment of counsel by such Indemnified Party has been authorized in writing by the Indemnifying Party, or (iii) the Indemnifying Party has not in fact employed counsel to assume the defense of such action within a reasonable time; then, the Indemnified Party shall have the right to retain its own counsel at the sole cost and expense of the Indemnifying Party, which costs and expenses shall be paid by the Indemnifying Party on a current basis. Subject to Section 6.4(a), if after notification thereof, the Indemnifying Party does not assume the defense of any such claim or litigation resulting from a claim within a timely manner so as not to prejudice the rights of the Indemnified Party, the Indemnified Party may defend against such claim or litigation, in such manner as it may deem reasonably appropriate. Each party shall cooperate, and cause its respective Affiliates to cooperate, in the defense or prosecution of any such third party claim and shall furnish or cause to be furnished such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

6.5 **Consequential and Punitive Damages.** Notwithstanding any other provision of this Agreement, no party shall be liable for Losses arising from (i) punitive damages or (ii) consequential damages (other than consequential damages arising from a breach of Sections 3.6(b) and 3.6(g) (but only with respect to breaches relating to trade secrets or the confidentiality of confidential information) and Section 5.1).

6.6 **Dollar Limitations.** With respect to indemnification by Seller of Seller Warranty Breaches and indemnification by Buyer of Buyer Warranty Breaches, (i) Seller or Buyer, as applicable, shall not be liable to indemnify an Indemnified Party hereunder until the aggregate amount Losses with respect to all such Seller Warranty Breaches or Buyer Warranty Breaches, as applicable, exceeds \$50,000, whereupon indemnification will be payable for the entire amount of such Losses (and not merely the portion of such Losses exceeding \$50,000) and (ii) the maximum liability of each of Seller or Buyer, as applicable, for Seller Warranty Breaches or Buyer Warranty Breaches, respectively, shall not exceed the Purchase Price.

6.7 **Materiality.** With respect to any claim for indemnification relating to an actual or alleged Seller Warranty Breach or Buyer Warranty Breach of a representation or warranty that may only be considered breached if the defect, inaccuracy, mistake or

misrepresentation is material, the materiality of such defect, inaccuracy, mistake or misrepresentation will be considered for purposes of determining whether the Seller Warranty Breach or Buyer Warranty Breach has occurred, but will not be considered in determining the amount of the Losses arising out of such breach.

6.8 **Exclusive Remedy and Time Limitations.** Except as provided in the following sentence, the right to indemnification pursuant to this Article 6 shall be the exclusive remedy of any party with respect to any inaccuracy in or any breach of any representation, warranty or covenant contained in this Agreement, other than claims arising from fraudulent misrepresentation or willful misconduct on the part of the Indemnifying Party. The foregoing shall not prevent any party from obtaining injunctive relief or other equitable remedies with respect to any such breach. Except with respect to (i) any claim for which notice has been given to the Indemnifying Party, but that has not then been resolved, (ii) any claim for Losses resulting from a fraudulent misrepresentation or willful misconduct, (iii) any claim relating to breach of the representations and warranties set forth in Section 3.8, which may be made until the expiration of the applicable statute of limitations with respect to the underlying tax liability, (iv) any claim relating to breach of the representations and warranties set forth in Section 3.14, which may be made until the fourth anniversary of the Closing, and (v) any claims giving rise to indemnity under this Agreement resulting from or arising out of any claim or legal proceeding by a party who is not a party to this Agreement, which may be made until the expiration of the applicable statute of limitations, no claim shall be made by a party for indemnification pursuant to this Article 6 for a Seller Warranty Breach or Buyer Warranty Breach after the first anniversary of the Closing. Nothing in this Section 6.8 shall bar, prohibit or prevent any claim by either party based on fraudulent misrepresentation or willful misconduct.

6.9 **Setoff Right.** Buyer shall have the right to set off any amount that may be owed to any Buyer Indemnified Party under this Article 6 against any amount otherwise payable by Buyer to Seller under this Agreement or otherwise.

6.10 **Tax Adjustments.** Any amount paid by Seller or Buyer under this Article 6 will be treated as an adjustment to the Purchase Price.

## ARTICLE 7 GENERAL

7.1 **Amendments; Waivers.** This Agreement and any schedule or exhibit referenced herein may be amended only by agreement in writing of both parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the party to be bound and then only to the specific purpose, extent and instance so provided.

7.2 **Schedules; Exhibits; Integration.** Each schedule and exhibit delivered pursuant to the terms of this Agreement shall be in writing and shall constitute a part of this Agreement, although schedules need not be attached to each copy of this Agreement. This Agreement, together with such schedules and exhibits, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith.

7.3 **Governing Law and Venue.** This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York without regard to the choice of law principles thereof. Any action or proceeding arising from or relating to this Agreement must be brought in a federal court in the Southern District of New York or in state court in New York, New York, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

7.4 **No Assignment.** Neither this Agreement nor any rights or obligations under it are assignable except that Buyer may assign without the consent of Seller its rights hereunder to any subsidiary of Buyer.

7.5 **Headings.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only and do not constitute a part of this Agreement.

7.6 **Counterparts.** This Agreement and any amendment hereto or any other agreement (or document) delivered pursuant hereto may be executed in one or more counterparts and by different parties in separate counterparts. All of such counterparts shall constitute one and the same agreement (or other document) and shall become effective (unless otherwise provided therein) when one or more counterparts have been signed by each party and delivered to the other party.

7.7 **Remedies Cumulative.** All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

7.8 **Parties in Interest.** This Agreement shall be binding upon and inure to the benefit of each party, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement is intended to relieve or discharge the obligation of any third Person to any party to this Agreement.

7.9 **Notices.** Any notice or other communication hereunder must be given in writing and (a) delivered in person, (b) transmitted by email or facsimile provided that any notice so given is also mailed or sent as provided in clause (c), or (c) mailed by certified or registered mail, postage prepaid, receipt requested, or sent by a nationally recognized overnight courier service, proof of delivery requested, as follows:

**If to Seller, addressed to:**

Axcelis Technologies, Inc.  
108 Cherry Hill Drive  
Beverly, MA 01915  
Attn: General Counsel  
Email: Lynnette.fallon@axcelis.com  
Fax: 978-787-4090

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**If to Buyer, addressed to:**

Lam Research Corporation  
4650 Cushing Parkway  
Fremont, CA 94538  
Attn: General Counsel  
Email: George.Schisler@lamresearch.com  
Fax: (510) 572-2876

or to such other address or to such other person as either party shall have last designated by such notice to the other party. Each such notice or other communication shall be effective (i) if given by email or facsimile, when transmitted to the applicable email address or fax number so specified in (or pursuant to) this Section 7.9 and an appropriate receipt or answerback is received, (ii) if given by mail, three days after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid, (iii) if given by overnight courier service, upon receipt of proof of delivery, or (iv) if given by any other means, when actually delivered at such address.

7.10 **Expenses and Attorneys Fees.** Each party shall be responsible for its own expenses and attorneys fees incurred in negotiating, executing, preparing and delivering the Transaction Agreements, including but not limited to all legal, accounting, broker, finder and financial advisor fees.

7.11 **Specific Performance.** Seller and Buyer each acknowledge that, in view of the uniqueness of the Purchased Assets and the transactions contemplated by this Agreement, each party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other party shall be entitled to specific enforcement of the terms hereof in addition to any other remedy to which it may be entitled, at law or in equity.

7.12 **Bulk Transfer Laws.** Seller and Buyer hereby waive compliance with any applicable bulk transfer laws, including, but not limited to, the bulk transfer provisions of the Uniform Commercial Code of any state, or any similar statute, with respect to the transactions contemplated hereby, *provided, however*, that any Losses of the Indemnified Parties arising from creditor claims against the Purchased Assets due to such noncompliance shall be indemnified by Seller pursuant to Article 6 herein.

## ARTICLE 8 DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided,

(a) the terms defined in this ARTICLE 8 have the meanings assigned to them in this ARTICLE 8 and include the plural as well as the singular,

(b) all accounting terms not otherwise defined herein have the meanings assigned under GAAP,

- (c) all references in this Agreement to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of the body of this Agreement,
- (d) pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms, and
- (e) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

As used in this Agreement and the Exhibits and Schedules delivered pursuant to this Agreement, the following definitions shall apply.

“**Action**” means any action, complaint, petition, investigation, suit or other proceeding, whether civil or criminal, in law or in equity, or before any arbitrator or Governmental Entity.

“**Affiliate**” means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person.

“**Approval**” means any approval, authorization, consent, qualification or registration, or any waiver of any of the foregoing, required to be obtained from, or any notice, statement or other communication required to be filed with or delivered to, any Governmental Entity or any other Person.

“**Closing Date**” means the date of the Closing.

“**Code**” means the Internal Revenue Code of 1986, as amended, or as hereafter amended.

“**Contract**” means any contract, agreement, lease, license, sales order, purchase order, or other legally binding commitment or instrument, whether or not in writing.

“**Disclosure Schedule**” means the Disclosure Schedule dated as of the date hereof, delivered by Seller to Buyer and referenced herein.

“**Encumbrance**” means any claim, charge, easement, encumbrance, lease, covenant, security interest, lien, option, pledge, rights of others, or restriction (whether on voting, sale, transfer, disposition or otherwise), whether imposed by agreement, understanding, law, equity or otherwise.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time.

“**Governmental Entity**” means any government or any agency, district, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

“**Law**” means any constitutional provision, statute or other law, rule, regulation, or interpretation of any Governmental Entity and any Order.

“**Liability**” means, with respect to a party, any liability or obligation of the party of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of Seller.

“**Loss**” means any action, cost, damage, disbursement, expense, liability, loss, deficiency, diminution in value, obligation, penalty or settlement of any kind or nature, whether foreseeable or unforeseeable, including but not limited to, interest or other carrying costs, penalties, reasonable legal, accounting and other professional fees and expenses incurred in the investigation, collection, prosecution and defense of claims and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by the specified person.

“**Operational Method Sheet**” means any instructions used on a manufacturing line describing how to assemble or integrate a Product or any component thereof.

“**Order**” means any decree, injunction, judgment, order, ruling, assessment or writ.

“**Person**” means an association, a corporation, an individual, a partnership, a trust or any other entity or organization, including a Governmental Entity.

“**Process of Record**” means a process specifying the method for fabricating, storing and transporting a Product or any component thereof, including, without limitation, the creation, maintenance, storage and auditing of design drawings or schematics; the raw materials to be used; how raw materials, work-in-process or final products are to be fabricated, assembled, cleaned, handled and packaged; testing and inspection processes; statistical analysis to be applied; the tools or methods to be used in the manufacturing process and the manner in which those tools or methods will be used; quality standards; clean room requirements; worker training requirements; and packaging, shipment and warehousing requirements.

“**Tax**” means any foreign, federal, state, county or local income, sales, use, excise, franchise, ad valorem, real and personal property, transfer, gross receipt, stamp, premium, profits, customs, duties, windfall profits, capital stock, production, business and occupation, disability, employment, payroll, severance or withholding taxes, assessments or other like charges of any kind whatever imposed by any Governmental Entity, any interest and penalties (civil or criminal), additions to tax, payments in lieu of taxes or additional amounts related thereto or to the nonpayment thereof, and any Loss in connection with the determination, settlement or litigation of any Tax liability.

[Remainder of page intentionally left blank]

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“**Transaction Documents**” means this Agreement, the Transition Agreement, the Collaboration Agreement, the Patent Assignment Agreement and the Bill of Sale.

“**Transactions**” means the transactions contemplated by the Transaction Documents.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed by its duly authorized officers as of the day and year first above written.

**AXCELIS TECHNOLOGIES, INC.**

By: /s/ Jay Zager  
Jay Zager  
Executive Vice President and  
Chief Financial Officer

**LAM RESEARCH CORPORATION**

By: /s/ Sarah O’Dowd  
Sarah O’Dowd  
Group Vice President and  
Chief Legal Officer

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**EXHIBIT A**

**PRODUCTS**

<b>Product Line Family</b>	<b>Wafer Size</b>	<b>Product</b>
Chuck based systems	300	Integra RS
	300	Integra ES
	300	RapidStrip 320 (RpS320)
	150, 200	RapidStrip 210 (RpS210)
Lamp based systems	300	RadiantStrip 320(RdS320),
	300	RadiantStrip ES (RdS320ES)
	300	RadiantStrip 320i (RdS320i)
	300	RadiantStrip 320 Low K (RdS320LK)
	200	RadiantStrip 220ES-SMIF (RdS220ES-SMIF)

200	RadiantStrip 220-SMIF (RdS220-SMIF)
200	RadiantStrip 220ES (RdS220ES)
200	RadiantStrip 220 (RdS220)
150, 200	FusionGemini ES (GES)
150, 200	FusionGemini ES –IS (GES-IS)
150, 200	FusionGemini Asher (GPL)
150, 200	FusionGemini Asher (GPL-IS)

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**List of Schedules omitted from the Asset Purchase Agreement  
by and between Lam Research Corporation (“Lam”) and Axcelis Technologies, Inc.  
 (“Axcelis”) dated as of December 3, 2012,  
as filed with the Securities Exchange Commission (the “Commission”) on Form 8-K**

- Section 1.1(g)      **Commercial Software used in the Integra.** *This schedule lists certain commercial software licenses held by Axcelis.*
- Section 1.1(i)      **Lab System Defined.** *This schedule describes engineering hardware being sold to Lam as part of the Purchased Assets.*
- Section 1.1(j)      **Other Assets being bought at Closing.** *This schedule describes hardware being sold to Lam for payment over and above the base Purchase Price.*
- Section 2.2(a)(i)    **Wire instructions.** *This schedule specifies the wire address for Axcelis’ bank.*
- Section 2.2(a) (ii)   **Conditions on earning the deferred \$2M purchase price.** *This schedule specifies the action items to be undertaken by Axcelis to earn the final \$2 million purchase price, including customer visits and other marketing activity.*
- Section 2.2(b)      **Allocation of Purchase Price.** *This schedule discloses the agreed allocation of the purchase price among the Purchased Assets.*
- Section 2.3(a)(iii)   **Employees receiving offers.** *This lists employees of Axcelis receiving offers of employment from Lam.*
- Section 3.6(a)      **List of Patents and Applications.** *This lists Axcelis patents and patent applications that are included in the Purchased Assets.*
- Section 3.7          **Material Contracts.** *This schedule says “Not Applicable.”*

Axcelis will furnish supplementally a copy of any omitted schedule to the Commission upon request.

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## TRANSITION AGREEMENT

This Transition Agreement (this “**Agreement**”) is entered into as of December 3, 2012 (the “**Effective Date**”) between Lam Research Corporation, a Delaware corporation (“**Lam**”) and Axcelis Technologies, Inc., a Delaware corporation (“**Company**”).

### 1. DEFINITIONS. As used in this Agreement:

“**Advanced Products**” means the products described in Exhibit A.

“**Affiliate**” means, with respect to a party, any person or entity that controls, is controlled by, or is under common control with such party, where “control” means ownership of fifty percent (50%) or more of the outstanding voting securities (but only as long as such person or entity meets these requirements).

“**Change of Control**” means, with respect to a party, the occurrence of any of the following events: (a) any consolidation or merger of such party with or into any other entity in which the holders of such party’s outstanding shares immediately before such consolidation or merger do not, immediately after such consolidation or merger, retain stock representing a majority of the voting power of the surviving entity or stock representing a majority of the voting power of an entity that wholly owns, directly or indirectly, the surviving entity; (b) the sale, transfer or assignment of securities of such party representing a majority of the voting power of all of such party’s outstanding voting securities to an acquiring party or group; or (c) the sale of all or substantially all of such party’s assets.

“**Company Customer**” means any Person who has purchased or purchases a Licensed Product from Company or any Affiliate of Company, whether prior to or after the Effective Date.

“**Existing Configurations**” means configurations of the Advanced Products that Company has sold to and installed for Existing Customers prior to the Effective Date.

“**Existing Customers**” means the persons or entities to whom Company has sold Licensed Products prior to the Effective Date.

“**Ion Implant Applications**” means any process for selectively implanting ions into defined areas of silicon or other substrates in order to create areas with different levels of conductivity or other material modifications (other than the removal of material) that enable the formation of integrated circuits.

“**Intellectual Property**” means all algorithms, application programming interfaces, apparatus, chemical compositions and structures, circuit designs and assemblies, concepts, data, databases and data collections, designs, diagrams, documentation, drawings, flow charts, formulae, gate arrays, ideas and inventions (whether or not patentable or reduced to practice), IP cores, know-how, materials, marketing and development plans, marks (including brand names, product names, logos, and slogans), methods, models, net lists, network configurations and architectures, photomasks, procedures, processes, protocols, schematics, semiconductor devices, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test vectors, tools, uniform resource identifiers including uniform resource locators (URLs), user interfaces, web sites, works of authorship, and other forms of technology.

“**Intellectual Property Rights**” means any and all now known or hereafter existing (a) rights associated with works of authorship throughout the universe, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trademark and trade name rights; (c) trade secret rights; (d) patents, designs, algorithms, and other industrial property rights; (e) other proprietary rights in Intellectual Property of every kind and nature throughout the universe, whether arising by operation of law, by contract or license, or otherwise; and (f) all registrations, applications, renewals, extensions, combinations, divisions, or reissues of the foregoing.

“**Lab System**” means the “Lab System” acquired by Lam from Company pursuant to the Asset Purchase Agreement dated November [\*], 2012 between Lam and Company, as such term is defined therein.

“**Legacy Products**” means the products described in Exhibit B.

“**Licensed Marks**” means the trademarks and trade names listed in Exhibit C (as such list may be updated from time to time by Lam upon notice to Company).

“**Licensed Products**” means the Advanced Products and the Legacy Products.

“**Licensed Technology**” means the “Intellectual Property Rights” acquired by Lam from Company pursuant to the Asset Purchase Agreement dated November [\*], 2012 between Lam and Company, as such term is defined therein, together with any and all Company Inventions assigned or licensed to Lam pursuant to Section 2.2(a) of this Agreement.

“**Order Deadline**” means the date that is 180 days following the Effective Date.



“**Person**” means any individual, partnership, firm, corporation, association, trust, unincorporated organization, joint venture, limited liability company, governmental authority or other entity.

“**Prohibited Upgrade**” means any part, component, sub-system, sub-assembly, or combination or series of parts, components, sub-systems or sub-assemblies of a Licensed Product that replaces an existing part, component, sub-system, sub-assembly, or combination or series of parts, components, sub-systems or sub-assemblies of an existing Licensed Product and, either individually or collectively, (i) increases the actual or potential productivity of such existing Licensed Product by 10% or more relative to the same Licensed Product prior to such replacement, (ii) has a standard list price of \$50,000 or greater, (iii) upgrades an existing Licensed Product for advanced technology optimized for 90nm or below, or (iv) upgrades an existing Licensed Product to enhance capabilities for low material loss strip or clean.

“**Support Period**” means the period beginning on the Effective Date and ending on the third anniversary of the Effective Date.

“**Transition Period**” means the period beginning on the Effective Date and ending on the date that is nine months following the Effective Date.

## 2. INTELLECTUAL PROPERTY

**2.1 Licenses.** Subject to the terms and conditions of this Agreement, Lam grants to Company a non-exclusive, non-transferable (except as provided in Section 10.2), irrevocable (except as provided in Section 2.3 and Section 9.3(a)), royalty-free, worldwide license (without the right to grant sublicenses except to contract manufacturers, subject to Lam’s prior written consent, which shall not be unreasonably withheld) under the Licensed Technology:

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(a) during the Transition Period, to make, sell, offer for sale, and distribute Advanced Products, solely for the sale of Existing Configurations of such Advanced Products to Existing Customers who have placed non-cancellable purchase orders for such Advanced Products not later than the Order Deadline;

(b) during the Support Period, to make, sell, offer for sale, and distribute Legacy Products;

(c) to make, sell, offer for sale, and distribute spare and replacement parts and components for Licensed Products solely to the extent needed to enable Company to provide support and maintenance services with respect to Licensed Products owned by Company Customers in accordance with Section 3.1 hereof, which license shall be perpetual (for the duration of the Intellectual Property Rights in such Licensed Technology); *provided, however*, that in no event may Company make, sell, offer for sale, or distribute Prohibited Upgrades pursuant to this Section 2.1(c); and

(d) to make, sell, offer for sale, and distribute semiconductor manufacturing equipment solely for Ion Implant Applications or equipment for photo-resist “curing” or photostabilization applications, or to make, sell, offer for sale and distribute equipment or processes solely for mask and reticle cleaning, which license shall be perpetual (for the duration of the Intellectual Property Rights in such Licensed Technology).

### 2.2 Ownership of Intellectual Property Rights.

(a) All worldwide Intellectual Property Rights in the Licensed Technology and Licensed Products are the exclusive property of Lam and its suppliers. All rights in and to the Licensed Technology not expressly granted to Company in this Agreement are reserved by Lam and its suppliers. In the event, during the Support Period, that Company makes any improvements, developments and/or modifications to the Licensed Technology or Licensed Products or otherwise conceives, creates, develops, or reduces to practice any Intellectual Property, in any stage of development, in connection with performing its obligations under this Agreement or otherwise covering, related to, necessary for or used in making, using or selling, the Licensed Products or any part thereof, or otherwise related to, necessary for or used in the conduct of the business of developing and providing manufacturing equipment designed to perform dry strip or clean processes on a silicon wafer or substrate (each, a “**Company Invention**”), Company agrees that: (i) Company shall promptly notify Lam in writing of any such Company Invention; (ii) such Company Invention shall be the sole and exclusive property of Lam; and (iii) Company hereby irrevocably and unconditionally assigns to Lam all right, title, and interest worldwide in and to such Company Invention and all Intellectual Property Rights thereto. If any Intellectual Property Rights in a Company Invention cannot (as a matter of law) be assigned by Company to Lam as provided in the preceding sentence, then (a) Company unconditionally and irrevocably waives the enforcement of such rights and all claims and causes of action of any kind against Lam with respect to such rights, and (b) Company unconditionally grants to Lam an exclusive, perpetual, irrevocable, worldwide, fully-paid license, with the right to sublicense through multiple levels of sublicensees, under any and all such rights (i) to reproduce, create derivative works of, distribute, publicly perform, publicly display, digitally transmit, and otherwise use the Company Invention in any medium or format, whether now

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known or hereafter discovered, (ii) to use, make, have made, sell, offer to sell, import, and otherwise exploit any product or service based on, embodying, incorporating, or derived from the Company Invention, and (iii) to exercise any and all other present or future rights in the Company Invention. Company will, at Lam's request, (a) cooperate with and assist Lam, both during and after the term of this Agreement, in perfecting, maintaining, protecting, and enforcing Lam's rights in the Company Inventions, and (b) execute and deliver to Lam any documents deemed necessary or appropriate by Lam in its discretion to perfect, maintain, protect, or enforce Lam's rights in the Company Inventions or otherwise carry out the purpose of this Agreement. Without limiting the generality of the foregoing, Company will execute and deliver to Lam, at Lam's request, a patent application assignment for any Company Invention for which Lam elects to file a patent application. At Lam's request, Company will promptly record such assignment with the United States Patent and Trademark Office. Company hereby irrevocably designates and appoints Lam and its duly authorized officers and agents as Company's agent and attorney-in-fact to act for and in Company's behalf to execute, deliver and file any and all documents with the same legal force and effect as if executed by Company, if Lam is unable for any reason to secure Company's signature on any document needed in connection with the actions described in this section. Company acknowledges that this appointment is coupled with an interest.

(b) Intellectual Property developed, acquired, or otherwise obtained by Company that is not included in the Licensed Technology (other than the commercially available licenses from Cimetrix Incorporated) which is either owned or licensed by the Company on the date hereof or licensed or obtained by Company from third parties hereafter may not be used by Company in making, selling or distributing Licensed Products.

**2.3 Termination of Certain Licenses.** If Company enters into a Change of Control transaction, the licensed rights granted pursuant to Sections 2.1(a) and 2.1(b) of this Agreement will immediately cease to exist, and Company must promptly discontinue all further use of the Licensed Technology for the purposes described in Section 2.1(a) and Section 2.1(b) and certify to Lam in writing signed by an officer of Company that it has fully complied with this requirement.

### 3. TRANSITION OBLIGATIONS

**3.1 Customer Support.** Company agrees, during the Support Period, to be solely responsible for performing, and in a manner consistent with good industry practice, all installation, training, support, spares, upgrades and other services requested or required by Company Customers, at each Company Customer's expense, with respect to Licensed Products that are sold by Company, subject to Section 2.1(c) hereof. Company shall be responsible, without limitation, for maintaining, at Company's sole expense, a sufficient inventory of spare parts and components to support the spares and service needs of Company Customers during the Support Period, and for maintaining a staff of properly trained technical support personnel sufficient to meet the support needs of Company Customers with respect to Licensed Products that are sold by Company. Company may not refer any Company Customer to Lam for such support. Lam has no obligation under this Agreement to provide any services to, or respond to any requests from, Company Customers. However, Lam reserves the right to establish and maintain contact with any Company Customer in order to facilitate the delivery of any Licensed Product support needed by such Company Customer.

**3.2 Transition Support.** Company agrees, during the Transition Period and as requested by Lam, to use reasonable commercial efforts to assist Lam in transitioning Existing Customers and Existing Customer processes to any dry strip or clean system(s) that Lam may designate and to recommend such Lam designated system to Existing Customers, which efforts will include making Company employees available to meet with Lam and with Existing Customers and to provide other services to Lam or Existing Customers, all as reasonably requested by Lam, at Company's expense; *provided, however*, that any out-of-pocket expense incurred by Company at Lam's request and pre-approved by Lam, including without limitation travel expenses, shall be reimbursed by Lam within 30 days of receipt of Company's invoice. Company will consult with Lam in good faith on a regular basis to report operational developments relating to the manufacture or sale of Licensed Products, changes in the status of relationships with Existing Customers or potential customers and other matters reasonably requested by Lam. Subject to Section 6 hereof, Company agrees that any material communications between Company and any Existing Customer related to the Licensed Products, Lam or this Agreement will be subject to Lam's prior approval. Company's responsibilities under this Section 3.2 shall include using its commercially reasonable efforts to (i) transfer all of Company's knowledge, know-how and expertise related to the Licensed Products to Lam, (ii) assist Lam in adapting Existing Customer processes, recipes and know-how related to any Licensed Product to Lam's designated system and (iii) facilitate the successful qualification of Lam's designated system for use with such Existing Customer processes and recipes. Company further agrees to use commercially reasonable efforts, at Company's sole expense (except for out-of-pocket expenses as described above), to assist Lam in obtaining any Existing Customer consents or approvals that Lam may deem necessary or desirable to permit the use of such Existing Customer recipes by Lam, whether in connection with a Licensed Product or any other system designated by Lam.

**3.3 Maintenance and Operation of Lab System.** Subject to the provisions of this Agreement, Company agrees to hold the Lab System for and on behalf of Lam in Company's facility. Company has conducted within the last 30 days, or will conduct promptly following the Effective Date at no additional expense to Lam, a comprehensive maintenance and service of the Lab System including a complete review and assessment of the condition of the Lab System and all components thereof. In the event the condition of the Lab System is not in good working order as of the Effective Date, Company agrees to perform all necessary repairs, replacements and updates, at no additional expense to Lam for either services or parts, in order to restore the Lab System to good working order. Company further agrees, during the Transition Period, to maintain the Lab System and all related facilities, utilities, power and other connections in good working order and to operate the Lab System at Lam's direction free of charge, other

than reimbursement of Company's actual, documented costs of wafers, consumable parts and other operating expenses, provided that such expenses are pre-approved by Lam prior to being incurred. For the avoidance of doubt, Lam shall not be responsible for any facilities, utilities, power, infrastructure or other costs associated with the Lab System or the operation thereof during the Transition Period, other than such expenses as are pre-approved by Lam in accordance with the preceding sentence. Upon Lam's request, Company agrees to cooperate with Lam to arrange for the packaging and shipment of the Lab System in the manner and to the location reasonably specified by Lam, the cost of which shipment shall be paid by Lam. Following the expiration of the Transition Period, if Lam has not requested the shipment of the Lab System from Company's facility, Company and Lam will mutually agree on the location and maintenance of the Lab System. Company shall ensure that, at all times prior to the delivery of

the Lab System to Lam, Company shall provide Lam and its representatives with free and complete access (during normal working hours unless otherwise agreed) to the Lab System and to the subsystems, abatement and clean room infrastructure needed to operate the Lab System, and to such operating, technical and other records, data, documents and information relating to the Lab System as Lam may reasonably request.

**3.4 Branding Restrictions.** Company will use the Licensed Marks to identify the Licensed Products and in all materials used to advertise, market, or promote the Licensed Products in a manner approved in advance by Lam. Company agrees that all use of the Licensed Marks will comply with Lam's then-current trademark usage guidelines and policies. Company must reproduce, on all Licensed Products, and must not remove, alter, or obscure in any way all proprietary rights notices of Lam on or within the Licensed Products and the User Documentation. Lam grants no rights in the Licensed Marks other than those granted in Section 2.1. Company acknowledges Lam's exclusive ownership of the Licensed Marks. Company agrees not to take any action inconsistent with such ownership and to cooperate, at Lam's request and expense, in any action which Lam deems necessary or desirable to establish or preserve Lam's exclusive rights in and to the Licensed Marks. Company will not adopt, use, or attempt to register any trademarks or trade names that are confusingly similar to the Licensed Marks or in such a way as to create combination marks with the Licensed Marks. Company will provide Lam with samples of all products and materials that contain the Licensed Marks prior to their public use, distribution, or display for Lam's quality assurance purposes and will obtain Lam's written approval before such use, distribution, or display. At Lam's request, Company will modify or discontinue any use of the Licensed Marks if Lam determines that such use does not comply with Lam's then-current trademark usage policies and guidelines.

## **4. REPORTS AND RECORDS**

**4.1 Reports.** Within forty-five (45) days after the end of each fiscal quarter during the Support Period, Company will provide Lam with a written report stating (a) the number of Licensed Products made and sold by Company during such quarter, (b) the identity and location of the Company Customers that received such Licensed Products, (c) the date of shipment of such Licensed Products, and (d) any other information that may be reasonably requested by Lam.

**4.2 Records.** At all times during the Support Period, and for at least three (3) years thereafter, Company will maintain at its principal place of business complete and accurate records with respect to Company's activities pursuant to this Agreement, including a complete list of all Licensed Products made or sold by Company and a complete list of Company Customer names, addresses, electronic mail addresses, and primary contacts.

**4.3 Audits.** Lam will have the right, during normal business hours and upon at least ten (10) days prior notice, to inspect Company's facilities and audit Company's records relating to Company's activities pursuant to this Agreement in order to verify that Company has complied with the terms of this Agreement, including the terms of the licenses granted in Section 2.1 hereof. The audit will be conducted at Lam's expense, unless the audit reveals that Company has violated the terms of Section 2.1 or 4.1, in which case Company will reimburse Lam for all costs and expenses incurred by Lam in connection with such audit.

## **5. COMPANY'S OTHER OBLIGATIONS**

**5.1 Compliance with Laws.** Company will at all times comply with all applicable laws and regulation in manufacturing and selling the Licensed Products.

**5.2 Warranties Made by Company.** Company will not make or publish any representations, warranties, or guarantees on behalf of Lam concerning the Licensed Products.

**5.3 Insurance.** Company shall, at its sole cost and expense, obtain and maintain in full force and effect appropriate liability insurance with reputable insurers and at such coverage levels as are customary in Company's business.

## **6. CONFIDENTIALITY**

**6.1 Confidential Information.** Each party (the “*Disclosing Party*”) may from time to time during the term of this Agreement disclose to the other party (the “*Receiving Party*”) certain information regarding the Disclosing Party’s business, including technical, marketing, financial, employee, planning, and other confidential or proprietary information (“*Confidential Information*”). The Disclosing Party will mark all Confidential Information in tangible form as “confidential” or “proprietary” or with a similar legend. The Disclosing Party will identify all Confidential Information disclosed orally as confidential at the time of disclosure and provide a written summary of such Confidential Information to the Receiving Party within thirty (30) days after such oral disclosure. Regardless of whether so marked or identified, however, any information relating to the Licensed Technology that Company knew or should have known, under the circumstances, was considered confidential or proprietary by Lam will be considered Confidential Information of Lam.

**6.2 Protection of Confidential Information.** The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party’s duty hereunder. The Receiving Party will protect the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

**6.3 Exceptions.** The Receiving Party’s obligations under Section 6.2 with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is lawfully received by the Receiving Party from a third party without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing Party’s Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is (i) approved in writing by the Disclosing Party, or (ii) required by law or by the order of a court of similar judicial or administrative body, provided that the Receiving Party, if

permitted by law, notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party’s reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

**6.4 Return of Confidential Information.** The Receiving Party will return to the Disclosing Party all Confidential Information of the Disclosing Party in the Receiving Party’s possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the Disclosing Party or the expiration or termination of this Agreement, whichever comes first.

**6.5 Confidentiality of Agreement.** Except as provided in Section 5.7 of the Asset Purchase Agreement between the parties dated the date hereof, neither party will disclose any terms of this Agreement to anyone other than its Affiliates, attorneys, accountants, and other professional advisors under a duty of confidentiality except (a) as required by law or (b) pursuant to a mutually agreeable press release.

## 7. WARRANTIES; INDEMNIFICATION

**7.1 Warranties by Both Parties.** Each party warrants that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on such party’s behalf has been duly authorized and empowered to enter into this Agreement.

**7.2 Disclaimer of Warranties.** THE LICENSED TECHNOLOGY IS PROVIDED “AS IS” AND COMPANY ACKNOWLEDGES THAT LAM MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE LICENSED TECHNOLOGY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

**7.3 Indemnification.** Company agrees to defend, indemnify and hold harmless Lam and its Affiliates from and against any claims, suits, losses, damages, liabilities, costs, and expenses (including reasonable attorneys’ fees) brought by third parties resulting from or relating to:

- (a) any breach by Company of its obligations, duties, or responsibilities under this Agreement;
- (b) any actions or omissions on the part of Company in making, selling or distributing the Licensed Products;
- (c) any claims against Lam made by Company Customers who receive the Licensed Products from Company.

Lam agrees to give Company prompt written notice of any such claim and cooperate with Company, at Company’s reasonable request and expense, in defending or settling the claim.

**8. LIMITATION OF LIABILITY.** IN NO EVENT WILL LAM BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES,

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INCLUDING ANY LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT.

## **9. TERM AND TERMINATION**

**9.1 Term.** The term of this Agreement will begin on the Effective Date and continue indefinitely unless terminated pursuant to Section 9.2.

### **9.2 Termination.**

(a) Lam may terminate this Agreement, effective immediately upon written notice to Company, if: (i) Company materially breaches any provision of this Agreement and does not cure the breach within forty-five (45) days after receiving written notice thereof from Lam; (ii) any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is commenced by or against Company, or Company fails to continue to do business in the ordinary course, or Company becomes insolvent or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, or Company applies for or consents to the appointment of a trustee, receiver or other custodian for Company, or makes a general assignment for the benefit of its creditors; or (iii) Company enters into a Change of Control transaction.

(b) Company may terminate this Agreement, effective immediately upon written notice to Lam, if Lam materially breaches any provision of this Agreement and does not cure the breach within forty-five (45) days after receiving written notice thereof from Company.

### **9.3 Effects of Termination**

(a) **Licenses.** Upon termination of this Agreement by Lam pursuant to Section 9.2(a)(i) or (ii), all licensed rights granted in this Agreement will immediately cease to exist, and Company must promptly discontinue all further use of the Licensed Technology and certify to Lam in writing signed by an officer of Company that it has fully complied with this requirement. Upon termination of this Agreement by Lam pursuant to Section 9.2(a)(iii) or by Company pursuant to Section 9.2(b), the licensed rights granted pursuant to Sections 2.1(c) and 2.1(d) of this Agreement will survive in perpetuity but Company shall have no other licensed rights under this Agreement.

(b) **Survival.** Sections 1 (Definitions), 2.2 (Ownership of Intellectual Property Rights), 6 (Confidentiality), 7 (Warranties; Indemnification), 8 (Limitation of Liability), 9.3 (Effects of Termination), and 10 (General) will survive expiration or termination of this Agreement for any reason.

## **10. GENERAL**

**10.1 Export and Import Laws.** Company will comply with all applicable export and import control laws and regulations in its use of the Licensed Technology.

**10.2 Assignments.** Neither party may assign or transfer, by operation of law or otherwise, any of its rights under this Agreement (including any licenses with respect to the

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Licensed Technology) or delegate any of its duties under this Agreement to any third party without the other party's prior written consent, except that a party may assign this Agreement without such consent to its successor in interest by way of merger, acquisition or sale of all or substantially all of its assets. Any attempted assignment or transfer in violation of the foregoing will be void. The terms of this Agreement shall be binding upon assignees. For the avoidance of doubt, the provisions of this Agreement relating to Company's entry into a Change of Control transaction shall apply notwithstanding this Section 10.2.

**10.3 Notices.** All notices, consents and approvals under this Agreement must be delivered in writing by courier, by electronic facsimile (fax), or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth beneath such party's signature, and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner. Either party may change its address by giving notice of the new address to the other party.

**10.4 Governing Law and Venue.** This Agreement will be governed by the laws of the State of New York as such laws apply to contracts between New York residents performed entirely within New York. Any action or proceeding arising from or relating to this Agreement must be brought in a federal court in the Southern District of New York or in state court in New York, New York, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

**10.5 Remedies.** The parties' rights and remedies under this Agreement are cumulative. Company acknowledges that the Licensed Technology contains valuable trade secrets and proprietary information of Lam, that any actual or threatened breach of Section 6 (Confidentiality) will constitute immediate, irreparable harm to Lam for which monetary damages could be an inadequate remedy, and that injunctive relief may be an appropriate remedy for such breach. If Company continues to make or sell Licensed Products after its right to do so has terminated or expired, Lam will be entitled to immediate injunctive relief without the requirement of posting bond, including an order directing that any Licensed Products that Company attempts to import into any country or territory be seized, impounded, and destroyed by customs officials. Lam acknowledges that any actual or threatened breach by Lam of the licenses granted in Section 2.1 will constitute immediate, irreparable harm to Company for which monetary damages could be an inadequate remedy, and that injunctive relief may be an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**10.6 Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**10.7 Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

**10.8 Construction.** The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

**10.9 Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

**10.10 Force Majeure.** Any delay in the performance of any duties or obligations of either party will not be considered a breach of this Agreement if such delay is caused by a fire, earthquake, flood, or any other event beyond the reasonable control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

**10.11 Independent Contractors.** Company's relationship to Lam is that of an independent contractor, and neither party is an agent or partner of the other. Company will not have, and will not represent to any third party that it has, any authority to act on behalf of Lam.

**10.12 Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms on any purchase order or similar document submitted by Company to Lam will have no effect.

**IN WITNESS WHEREOF**, the parties have executed this Transition Agreement as of the Effective Date.

**LAM RESEARCH CORPORATION**

**AXCELIS TECHNOLOGIES, INC.**

By: /s/ Sarah O'Dowd

By: /s/ Jay Zager

Name: Sarah O'Dowd

Name: Jay Zager

Title: Group Vice President and Chief Legal Officer

Title: Executive Vice President and Chief Financial Officer

Address for Notice:

Address for Notice:

4650 Cushing Parkway  
Fremont, CA 94538  
Attn: General Counsel  
Fax: (510) 572-2876

108 Cherry Hill Drive  
Beverly, MA 01915  
Attn: General Counsel  
Fax: 978-787-4090

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**EXHIBIT A****ADVANCED PRODUCTS**

<b>Product Line Family</b>	<b>Wafer Size</b>	<b>Product</b>
Chuck based systems	300	Integra RS
	300	Integra ES
	300	RapidStrip 320 (RpS320)
Lamp based systems	300	RadiantStrip 320(RdS320),
	300	RadiantStrip ES (RdS320ES)
	300	RadiantStrip 320i (RdS320i)
	300	RadiantStrip 320 Low K (RdS320LK)

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**EXHIBIT B****LEGACY PRODUCTS**

<b>Product Line Family</b>	<b>Wafer Size</b>	<b>Product</b>
Chuck based systems	150, 200	RapidStrip 210 (RpS210)
Lamp based systems	200	RadiantStrip 220ES-SMIF (RdS220ES-SMIF)
	200	RadiantStrip 220-SMIF (RdS220-SMIF)
	200	RadiantStrip 220ES (RdS220ES)
	200	RadiantStrip 220 (RdS220)
	150, 200	FusionGemini ES (GES)
	150, 200	FusionGemini ES -IS (GES-IS)
	150, 200	FusionGemini Asher (GPL)
	150, 200	FusionGemini Asher (GPL-IS)

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**EXHIBIT C****LICENSED MARKS**

**The tradenames listed for the Products on Exhibit A and B.**

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**FOR IMMEDIATE RELEASE**

**Axcelis Technologies Company Contacts:**

Jay Zager, Axcelis Technologies: +1-978-787-9408, [jay.zager@axcelis.com](mailto:jay.zager@axcelis.com)  
 Maureen Hart, Corporate Communications: +1-978-787-4266, [maureen.hart@axcelis.com](mailto:maureen.hart@axcelis.com)

**Lam Research Company Contacts:**

Ed Rebello, Corporate Communications: +1-510-572-6603, [edward.rebello@lamresearch.com](mailto:edward.rebello@lamresearch.com)  
 Shanye Hudson, Investor Relations: +1-510-572-4589, [shanye.hudson@lamresearch.com](mailto:shanye.hudson@lamresearch.com)

**Axcelis Technologies and Lam Research Enter Strategic  
 Collaboration Agreement on Ion Implant, Dry-Strip, and Etch**

- Agreement Reflects Trend of Increased Semiconductor Industry Collaboration to Manage the Complexity and Cost of Technology Inflection Points
- Axcelis to Focus Exclusively on Ion Implant and Divest Dry-Strip Technology to Lam

BEVERLY, Mass., and FREMONT, Calif., December 4, 2012 — Semiconductor equipment makers Axcelis Technologies, Inc. (NASDAQ: ACLS) and Lam Research Corp., (NASDAQ: LRCX) today announced a strategic collaboration agreement focusing on the interrelationship between ion implantation, etch processes, and photoresist strip applications, including material modification implants and high-dose implant strip (HDIS). Separately, Axcelis decided that it will exit the dry-strip business and divest its dry-strip intellectual property and technology, including the advanced non-oxidizing process technology of its Integra product line, to Lam Research, allowing Axcelis to focus exclusively on the ion implant market. Axcelis will continue to ship its 300 mm dry-strip products through August 2013, and support the large Axcelis installed base indefinitely, including all existing parts and service contracts.

For Lam, in addition to acquiring all of Axcelis' dry-strip IP, the collaboration agreement provides for cooperation with Axcelis in the area of advanced implant technology focused on further strengthening its industry-leading etch, dry-strip, clean, and deposition offerings. Contamination from improperly prepared surfaces, particularly after high-dose implants, can affect the deposition and adhesion of subsequent layers, impacting device yield. Advanced semiconductor nodes can use material modification implant techniques in conjunction with advanced etch processes to achieve improved device performance.

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Mary Puma, chairman and CEO of Axcelis stated, "Axcelis is excited to be working closely with Lam under the collaboration agreement to provide customers solutions where implant, etch, and dry-strip processes interact. Axcelis made the strategic decision to focus on the ion implantation market and we believe that Lam Research, already a leader in dry-strip, is the best company to utilize its existing dry-strip products to provide both Axcelis and Lam customers with continued access to superior dry-strip technology."

The semiconductor industry is facing a challenging environment of technology inflection points across multiple device types occurring over the next several years. "Given the high level of technical and economic challenges across the industry, partnerships and collaboration between companies with complementary technologies can add meaningful value to customers by delivering better solutions, faster," said Martin Anstice, president and CEO of Lam Research. "Lam is focused on developing collaboration activity throughout the industry ecosystem to leverage its broad resources, solid industry relationships, and deep technical expertise to help customers realize greater value from their investments."

**About Axcelis:**

Axcelis (NASDAQ: ACLS), headquartered in Beverly, Mass., provides innovative, high-productivity solutions for the semiconductor industry. Axcelis is dedicated to developing enabling process applications through the design, manufacture, and complete life cycle support of ion implantation systems. The Company's Internet address is: [www.axcelis.com](http://www.axcelis.com).

**About Lam Research:**

Lam Research Corporation is a major supplier of innovative wafer fabrication equipment and services to the worldwide semiconductor industry. For more than 30 years, the Company has driven continuous improvements in chip performance, power consumption, and cost, contributing to the global proliferation of smartphones, computers, tablets, and other electronic products. Lam Research has been the leading supplier of high-throughput plasma etch equipment for more than a decade and expanded its product offerings in 2008 to include single-wafer clean systems. The Company added thin-film deposition and wafer surface preparation technologies to its product portfolio in 2012 with the acquisition of Novellus Systems, Inc. Headquartered in Fremont, Calif., Lam Research maintains a global network of service facilities throughout North America, Asia, and Europe to rapidly meet the needs of its global customer base. It is an S&P 500® company and NASDAQ-100® company whose common stock trades on

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the NASDAQ Global Select Market<sup>SM</sup> under the symbol LRCX. For more information, please visit <http://www.lamresearch.com>.

**Caution Regarding Forward-Looking Statements**



This announcement contains, or may contain, “forward-looking statements” concerning Lam Research and Axcelis, which are subject to the safe-harbor provisions created by the Private Securities Litigation Reform Act of 1995. Generally, the words “believe,” “will,” “may,” and other future-oriented terms identify forward-looking statements. Forward-looking statements include, but are not limited to, statements relating to the expected benefits of the collaboration, Lam Research’s ability to strengthen its technology offerings, the ability of certain technologies to achieve improved performance, future industry developments and trends, the statements set forth in the CEO quotes, and any assumptions underlying any of the foregoing statements.

These forward-looking statements are based upon the current beliefs and expectations of the management of Lam Research and Axcelis and involve risks and uncertainties that could cause actual results to differ materially from those expressed in the forward-looking statements. Many of these risks and uncertainties relate to factors that are beyond Lam Research’s and Axcelis’ ability to control or estimate precisely and include, without limitation: the ability to realize expected benefits from the collaboration to the extent anticipated; the potential impact to customer, supplier, employee, and other relationships caused by the announcement; customer requirements and the ability to satisfy those requirements; and other risks and uncertainties, including those detailed from time-to-time in Lam Research’s and Axcelis’ periodic reports (whether under the caption “Risk Factors” or “Forward Looking Statements” or elsewhere). Neither Lam Research nor Axcelis can give any assurance that such forward-looking statements will prove to have been correct. The reader is cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this announcement. Neither Lam Research nor Axcelis nor any other person undertakes any obligation to update or revise publicly any of the forward-looking statements set out herein, whether as a result of new information, future events or otherwise, except to the extent legally required.

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