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- Correction of PTO Error
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Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other

Citizenship/State of Incorporation/Organization

Receiving Party

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Name

DBA/AKA/TA

Composed of

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- Individual General Partnership Limited Partnership Corporation Association
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01 FC:441
02 FC:442

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Name

Address (line 1)

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Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

858 320 2032

Name

Merle W. Richman, III

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Address (line 2)

La Jolla, CA 92038-3333

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

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28

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

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Number of Properties

Enter the total number of properties involved.

#

4

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

115.00

Method of Payment:

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Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

50-1119

Authorization to charge additional fees:

Yes

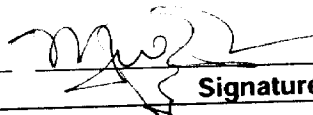
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Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Merle W Richman, III

Name of Person Signing



Signature

2/13/2000

Date Signed

RECAPITALIZATION AND MERGER AGREEMENT

among

NUERA MERGERCO, INC.

NUERA HOLDINGS, INC.

PACIFIC COMMUNICATION SCIENCES, INC.

NUERA COMMUNICATIONS, INC.

NUERA OPERATING COMPANY, INC.

CIRRUS LOGIC, INC.

Dated as of December 19, 1997

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. The Recapitalization and Merger	3
1.1. Pre-Merger Recapitalization Transactions	3
1.2. Effective Time	4
1.3. Organizational Documents, Directors and Officers of the Surviving Corporation	5
1.4. Further Assurances	6
1.5. Conversion of Capital Stock	6
1.6. Payment of Merger Consideration and Additional Consideration	7
 2. Representations and Warranties of the Seller	 7
2.1. Authorization, etc.	7
2.2. Title to Shares, Capitalization, etc.	8
2.3. No Conflicts, etc.	10
2.4. Corporate Status	10
2.5. Investments	12
2.6. Financial Statements	12
2.7. Undisclosed Liabilities, etc.	12
2.8. Absence of Changes	13
2.9. Tax Matters.	15
2.10. Assets	16
2.11. Real Property	17
2.12. Contracts	18
2.13. Intellectual Property; Technology	19
2.14. [Intentionally Omitted.]	22
2.15. Litigation	22
2.16. Compliance with Laws and Instruments; Consents	23
2.17. Environmental Matters	25
2.18. Affiliate Transactions	27
2.19. Employees, Labor Matters, etc.	27
2.20. Employee Benefit Plans and Related Matters; ERISA	28
2.21. Accounts Receivable	32
2.22. Inventories	32

2.23.	Customers	32
2.24.	Suppliers; Raw Materials	33
2.25.	Products	33
2.26.	Bank Accounts	34
2.27.	Brokers, Finders, etc.	34
2.28.	Disclosure	35
3.	Representations and Warranties of the Buyer	35
3.1.	Corporate Status; Authorization, etc.	35
3.2.	No Conflicts, etc.	35
3.3.	Brokers, Finders, etc.	36
3.4.	Litigation	36
3.5.	No Prior Activities	36
3.6.	Capitalization	37
4.	Covenants of the Seller	37
4.1.	Record Retention	37
4.2.	Non-Transferable Rights	37
4.3.	Accountants	37
4.4.	Covenant Not to Compete	37
4.5.	Confidentiality	38
4.6.	Seller Technology	40
5.	Covenants of the Buyer	41
5.1.	Employment Agreements	41
5.2.	Options	41
6.	Tax Covenants of the Buyer and the Seller	41
6.1.	Termination of Tax Sharing	41
6.2.	Payments	41
6.3.	Tax Returns	43
6.4.	Cooperation	44
6.5.	Refunds	44
6.6.	Audits	46
6.7.	Transaction-Related Taxes; Employment Taxes	47
6.8.	Section 338(h)(10) Election	49
6.9.	Modification; Revocation	50
6.10.	Consistent Treatment	50

6.11.	Taxes and Expenses Resulting from Elections	50
6.12.	Notices, etc.	51
6.13.	Tax Dispute Resolution Mechanism	51
6.14.	Effect of Disclosure, etc.; No Duplicative Payments	52
6.15.	Record Retention	52
7.	Conditions Precedent	52
7.1.	Conditions to Obligations of Each Party	52
7.1.1.	No Injunction, etc.	53
7.2.	Conditions to Obligations of the Buyer	53
7.2.1.	Performance	53
7.2.2.	Consents	53
7.2.3.	FIRPTA Certificate	54
7.2.4.	No Material Adverse Effect	54
7.2.5.	Opinion of Counsel	54
7.2.6.	Corporate and Other Proceedings	54
7.2.7.	Pacific Communication Assignments	54
7.2.8.	401(k) Letter	55
7.2.9.	License Agreement	55
7.3.	Conditions to Obligations of the Seller	55
7.3.1.	Performance	55
7.3.2.	Opinion of Counsel	55
7.3.3.	Corporate Proceedings	55
8.	[Intentionally Omitted]	56
9.	Indemnification	56
9.1.	Indemnification by the Seller	56
9.2.	Indemnification by the Buyer	57
9.3.	Payment Adjustments, etc.	58
9.4.	Indemnification Procedures	58
9.5.	Survival of Representations and Warranties, etc.	60
10.	Definitions	60
10.1.	Terms Generally	60
10.2.	Certain Terms	61

11. Miscellaneous	74
11.1. Expenses	74
11.2. Notices	74
11.3. Governing Law, etc.	76
11.4. Binding Effect	76
11.5. Assignment	76
11.6. No Third Party Beneficiaries	76
11.7. Amendment; Waivers, etc.	76
11.8. Entire Agreement	77
11.9. Severability	78
11.10. Headings	78
11.11. Counterparts	78
11.12. PCSI Consent	78
11.13. Appraisal Rights	78

Exhibit A

RECAPITALIZATION AND MERGER AGREEMENT

RECAPITALIZATION AND MERGER AGREEMENT, dated as of December 19, 1997 (this "Agreement") among Nuera Mergerco, Inc., a Delaware corporation (the "Buyer"), Nuera Holdings, Inc., a Delaware corporation (the "Company"), Pacific Communication Sciences, Inc., a Delaware corporation ("PCSI"), Nuera Communications, Inc., a California Corporation ("Oldco"), Nuera Operating Company, Inc., a California corporation (the "Operating Company"), and Cirrus Logic, Inc., a California corporation (the "Seller")

W I T N E S S E T H :

WHEREAS, (i) the Seller is the sole stockholder of each of PCSI, the Operating Company and the Company and (ii) PCSI is the sole stockholder of Oldco;

WHEREAS, PCSI, the Operating Company, the Company, Oldco, the Seller and the Buyer desire to consummate the recapitalization and merger transactions contemplated by this Agreement on the terms and conditions set forth herein;

WHEREAS, the recapitalization will consist of the following transactions (collectively, the "Recapitalization"), which transactions will be consummated in the following order and each will be conditioned upon the occurrence of the other transactions:

1. The Seller will transfer to PCSI, as a capital contribution, Seller's interest in the capital stock of the Company and Operating Company;

2. PCSI will transfer to Oldco, as a capital contribution, PCSI's interest in the capital stock of the Company and Operating Company;

3. Operating Company will acquire from Oldco and assume, and Oldco will assign and transfer to Operating Company, all of its assets, subject to all of its liabilities (other than (A) assets or liabilities arising under or in respect of the Cirrus Logic, Inc. Amended 1989 Employee Stock Purchase Plan, the Nuera Communications, Inc. 1995 Stock Plan, the Nuera Communications, Inc. 1995 Executive Stock Plan, any option granted under such plan or any agreement relating thereto and (B) assets or liabilities with respect to Taxes unless otherwise provided in this Agreement), for an aggregate consideration of \$6,979,915 demand promissory note payable by Operating Company to Oldco (the "Operating Company Promissory Note");

4. The Company will purchase from Oldco, and Oldco will sell and transfer to the Company, all of the capital stock of Operating Company for 1,000 shares of common stock in the Company;

5. In connection with the Recapitalization, the Seller, the Company and Oldco will make a Section 338(h)(10) Election pursuant to Section 6.8 of this Agreement;

6. Certain investors (the "Equity Investors") will make capital contributions to the Buyer in an aggregate cash amount of not less than \$9,000,000 and the Buyer will issue to the Equity Investors shares of stock in respect thereof;

7. The Equity Investors will loan the Company not less than \$6,000,000 in the aggregate pursuant to the Company's 10% Subordinated Promissory Note due December 15, 2002.

8. The Buyer will merge with the Company, with the Company surviving the merger (the "Merger");

9. Pursuant to and immediately following the Merger, (i) the Equity Investors in the aggregate will hold not more than 94% of the shares of the Company's then

outstanding common stock (on a fully diluted basis),
(ii) Oldco will hold not less than 6% of the Company's then
outstanding common stock (on a fully diluted basis), and
(iii) Oldco will receive \$12,520,085 in cash and 940 shares
of the Company's Series A Redeemable Preferred Stock with an
aggregate price of \$940,000 and having the other terms set
forth on Exhibit A hereto; and

10. The Operating Company will pay \$6,979,915 in
cash to Oldco as payment in full of the Operating Company
Promissory Note.

WHEREAS, the Company, the Seller and the Buyer
desire to make certain representations, warranties and
agreements in connection with the Recapitalization and
Merger and also to prescribe various conditions thereto;

NOW, THEREFORE, in consideration of the premises,
mutual covenants, representations and warranties made herein
and of the mutual benefits to be derived therefrom, the
parties hereto agree as follows:

1. The Recapitalization and Merger.

1.1. Pre-Merger Recapitalization Transactions.

Subject to the terms and conditions of this Agreement,
prior to the Effective Time (as defined in Section 1.2), the
Seller will cause the following to occur:

(a) The Seller will transfer to PCSI, as a capi-
tal contribution, Seller's interest in the capital stock of
the Company and Operating Company;

(b) PCSI will transfer to Oldco, as a capital
contribution, PCSI's interest in the capital stock of the
Company and Operating Company;

(c) Operating Company will acquire from Oldco and
assume, and Oldco will assign and transfer to Operating
Company, all of its assets, subject to all of its liabili-

ties (other than (A) assets or liabilities arising under or in respect of the Cirrus Logic, Inc. Amended 1989 Employee Stock Purchase Plan, the Nuera Communications, Inc. 1995 Stock Plan, the Nuera Communications, Inc. 1995 Executive Stock Plan, any option granted under such plan or any agreement relating thereto and (B) assets or liabilities with respect to Taxes unless otherwise provided in this Agreement), for an aggregate consideration of the Operating Company Promissory Note;

(d) The Company will purchase from Oldco, and Oldco will sell and transfer to the Company, all of the capital stock of Operating Company for 1,000 shares of common stock in the Company;

(e) In connection with the Recapitalization, the Seller, the Company and Oldco will make a Section 338(h)(10) Election pursuant to Section 6.8 of this Agreement; and

(f) In accordance with and subject to the terms and provisions of this Agreement and the DGCL, at the Effective Time: (i) the Buyer shall be merged with and into the Company, the separate existence of the Buyer shall cease and the Company shall be the surviving corporation (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of Delaware; (ii) all rights, privileges, immunities, powers, purposes, franchises, properties and assets of the Company and the Buyer shall vest in the Surviving Corporation; and (iii) all debts, liabilities, obligations, restrictions, disabilities and duties of the Company and the Buyer shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation.

1.2. Effective Time. Upon the terms and subject to the conditions of this Agreement, on a date specified by the parties hereto, which shall be no later than the second Business Day after the satisfaction or waiver of the conditions set forth in Section 7 (the "Closing Date"), the Company shall execute and file a Certificate of Merger

(together with any other documents required by applicable Law to effectuate the Merger) with the Secretary of State of the State of Delaware in accordance with the DGCL (the "Certificate of Merger"). A closing (the "Closing") will be held at the offices of Debevoise & Plimpton, 875 Third Avenue, New York, New York (or such other place as the parties may agree), for the purpose of confirming all of the foregoing. The Merger shall become effective simultaneously with the filing of the Certificate of Merger. The time when the Merger shall become effective is referred to in this Agreement as the "Effective Time." The date when the Merger shall become effective is referred to in this Agreement as the "Effective Date."

1.3. Organizational Documents, Directors and Officers of the Surviving Corporation. (a) Certificate of Incorporation. From and after the Effective Time, the Certificate of Incorporation of the Company in effect immediately prior to the Effective Time shall be the certificate of incorporation of the Surviving Corporation, except that the Certificate of Incorporation of the Company shall be amended by virtue of the Merger to read in its entirety as set forth in Exhibit A.

(b) By-Laws. From and after the Effective Time, the by-laws of the Buyer in effect immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation until thereafter amended, altered or repealed as provided therein.

(c) Directors and Officers. From and after the Effective Time, the directors of the Buyer immediately prior to the Effective Time shall be the directors of the Surviving Corporation, and the officers of Buyer immediately prior to the Effective Time shall be the officers of the Surviving Corporation, each to hold office in accordance with the certificate of incorporation and by-laws of the Surviving Corporation until his or her successor is elected or appointed, as the case may be, and qualified or until his or her earlier death, resignation, disqualification or removal.

1.4. Further Assurances. Following the Effective Time, the parties shall, and shall cause each of their Affiliates to, from time to time, execute and deliver such additional instruments, documents, conveyances or assurances and take such other actions as shall be necessary, or otherwise reasonably be requested, to confirm and assure the rights and obligations provided for in this Agreement and render effective the consummation of the transactions contemplated hereby, or otherwise to carry out the intent and purposes of this Agreement.

1.5. Conversion of Capital Stock. (a) Capital Stock of the Company. At the Effective Time, each share of common stock of the Company then issued and outstanding, shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into the right to receive (i) 375 shares of fully paid and nonassessable shares of Common Stock, par value \$.01 per share, of the Surviving Corporation (the "Common Stock"), which shall represent 6% (on a fully diluted basis) of the outstanding shares of Common Stock of the Surviving Corporation, (ii) 0.47 shares of fully paid and nonassessable shares of Series A Redeemable Preferred Stock, par value \$.01 per share, of the Surviving Corporation (the "Series A Preferred") and (iii) \$6,260.0425 (such amounts, in the aggregate, the "Merger Consideration"). In addition, the Buyer shall pay the Seller \$2,000,000 (the "Additional Consideration") in consideration for the agreement not to compete as set forth in Section 4.4.

(b) No Rights as Stockholders. Other than with respect to the shares of Common Stock and Series A Preferred Stock to be received pursuant to the Merger, the holders of certificates representing shares of capital stock of the Company shall as of the Effective Time cease to have any rights as a stockholder of the Company, except the right to receive the Merger Consideration, without interest, as determined and paid in the manner set forth in this Agreement.

(c) Common Stock of the Buyer. At the Effective Time, each share of common stock of the Buyer then issued and outstanding shall, by virtue of the Merger and without any action on the part of the holder thereof be converted into and become (i) 75 shares of fully paid and nonassessable shares of Common Stock and (ii) 0.094 shares of fully paid and nonassessable shares of Series A Preferred Stock.

1.6. Payment of Merger Consideration and Additional Consideration. Immediately after the Effective Time and at the Closing the Surviving Corporation will make full payment of (i) the Merger Consideration (including the issuance of the Series A Redeemable Preferred Stock) to Oldco, the record and beneficial owner of all of the outstanding capital stock of the Company and (ii) the Additional Consideration to the Seller.

2. Representations and Warranties of the Seller.

Except as set forth in Seller's Disclosure Schedule (which shall identify any exception by the relevant section or subsection), the Seller represents and warrants to the Buyer as follows, as of the date hereof:

2.1. Authorization, etc. (a) Each member of the Seller Group (other than Nuera UK Ltd. which is not a party hereto) has full corporate power and authority to execute and deliver this Agreement, to perform such member's obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement, the performance of such member's obligations hereunder, and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action of each such member. Each such member has duly executed and delivered this Agreement. This Agreement constitutes the legal, valid and binding obligation of each such member of the Seller Group enforceable against each such member in accordance with its terms except as enforceability may be limited by bankruptcy and other similar laws and general principles of equity.

(b) Each member of the Seller Group that is to be a party to any of the agreements delivered in connection with the Recapitalization (the "Recapitalization Agreements") has full corporate power and authority to execute and deliver each Recapitalization Agreement to which such member shall be a party, to perform such member's obligations thereunder and to consummate the transactions contemplated thereby. The execution and delivery of each Recapitalization Agreement to which such member shall be a party, the performance of such member's obligations thereunder, and the consummation of the transactions contemplated thereby, have been duly authorized by all requisite corporate action of such member. Simultaneously with the execution of this Agreement, each such member on the Closing Date will have duly executed and delivered each such Recapitalization Agreement to which such member shall be a party. Each Recapitalization Agreement when so executed and delivered will constitute the legal, valid and binding obligation of each such member party thereto, enforceable against each such member party thereto in accordance with its respective terms except as enforceability may be limited by bankruptcy and other similar laws and general principles of equity.

2.2. Title to Shares, Capitalization, etc.

(a) Title. Immediately prior to the Recapitalization, Seller owns, beneficially and of record, (i) 1,000 shares of common stock, par value \$0.01 per share, of the Company (the "Shares"), (ii) 100 shares of common stock, par value \$0.01 per share, of the Operating Company and (iii) 1,000 shares, par value of \$.01 per share of PCSI, in each case free and clear of any Liens. Immediately prior to the Recapitalization, PCSI owns, beneficially and of record, 10,000,000 shares of Series A Preferred Stock, par value \$0.001 per share and 1,000 shares of common stock, par value \$0.001 per share, of Oldco, free and clear of any Liens. After giving effect to the Recapitalization (but not the Merger), the authorized capital stock of the Operating Company will be 100 shares of common stock, par value \$0.01 per share, all of which will be owned, free and clear of any Liens, by the Company and the authorized capital stock of

the Company will be 2,000 shares of common stock, par value \$0.01 per share, all of which will be owned, free and clear of any Liens, by Oldco.

(b) Authorized Capital Stock of the Company.

Immediately prior to the Recapitalization, the authorized capital stock of the Company consists of 1,000 shares of common stock, par value \$0.01 per share, all of which are issued and outstanding and owned by the Seller. The Shares have been duly authorized and validly issued and are fully paid and nonassessable.

(c) Authorized Capital Stock of the Company

Group. Schedule 2.2(c) contains a complete and correct description of the shares of stock or other equity interests that are authorized, or issued and outstanding, of each member of the Company Group (other than the Company). All of such outstanding shares of stock or other equity interests are duly authorized, validly issued, fully paid and nonassessable, and are owned beneficially and of record by the member of the Company Group or other Person set forth on Schedule 2.2(c), free and clear of any Liens.

(d) No Equity Rights. After giving effect to the Recapitalization (other than the Merger), (i) there are no preemptive or similar rights on the part of any holders of any class of securities of any member of the Company Group, (ii) there are no subscriptions, options, warrants, conversion or other rights, agreements, commitments, arrangements or understandings of any kind obligating any member of the Seller Group or any other Person, contingently or otherwise, to issue or sell, or cause to be issued or sold, any shares of capital stock of any class of any member of the Company Group (other than Oldco), or any securities convertible into or exchangeable for any such shares, are outstanding, and no authorization therefor has been given and (iii) there are no outstanding contractual or other rights or obligations to or of any member of the Seller Group or any other Person to repurchase, redeem or otherwise acquire any outstanding shares

or other equity interests of any member of the Company Group.

2.3. No Conflicts, etc. The execution, delivery and performance of this Agreement and the Recapitalization Agreements by each member of the Seller Group party thereto, and the consummation of the transactions contemplated hereby and thereby, do not conflict with, contravene, result in a violation or breach of or default under (with or without the giving of notice or the lapse of time or both), create in any other Person a right or claim of termination, amendment, or require modification, acceleration or cancellation of, or result in the creation of any Lien (or any obligation to create any Lien) upon any of the properties or assets of the Seller or any member of the Seller Group under, (a) any Law applicable to any member of the Seller Group or any of their respective properties or assets assuming the consents, approvals, authorizations or permits and filings or notifications set forth on Schedule 2.3 are duly and timely obtained or made, (b) any provision of any of the Organizational Documents of any member of the Seller Group or (c) except as to which requisite waivers or consents have been obtained and except for the consents and approvals required under the agreements and instruments listed on Schedule 2.3, any Contract, or any other agreement or instrument to any member of the Seller Group is a party or by which any of their respective properties or assets may be bound, except, in the case of this clause (c), for violations and defaults that, individually and in the aggregate, would not have or result in a Material Adverse Effect.

2.4. Corporate Status. (a) Organization. Immediately prior to the Recapitalization, each of the Seller and each member of the Seller Group is a corporation duly organized, validly existing and in good standing under the laws of its respective jurisdiction of incorporation, which jurisdiction is set forth on Schedule 2.4(a), and has full corporate power and authority to conduct its business and to own or lease and to operate its properties as and in the places where such business currently is conducted and

such properties currently are owned, leased or operated (although certain filings and registrations may be required following the Recapitalization which will not be taken by Seller).

(b) Qualification. Immediately prior to the Recapitalization, each member of the Seller Group is duly qualified or licensed to do business and is in good standing in each of the jurisdictions specified in Schedule 2.4(b), which includes each jurisdiction in which the nature of its business or the properties owned or leased by it makes such qualification or licensing necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

(c) Organizational Documents. The Seller has delivered to the Buyer complete and correct copies of the Organizational Documents of each member of the Seller Group (other than the Seller), as amended, modified or waived through and in effect on the date hereof. Each of the Organizational Documents of each member of the Seller Group is in full force and effect. No member of the Seller Group is in violation of any of the provisions of its Organizational Documents. The minute books of each member of the Seller Group (other than the Seller), which have heretofore been made available to the Buyer, correctly reflect in all material respects all corporate actions taken by the stockholders and directors (including by any committee of the board of directors) of each member of the Seller Group (other than the Seller).

(d) No Prior Activities. Except for obligations or liabilities incurred, and business and activities arising, in connection with its incorporation or organization, the Recapitalization or the negotiation and consummation of this Agreement, and the transactions contemplated hereby neither the Company nor the Operating Company has incurred any obligations or liabilities or engaged in any business or activities of any type or kind whatsoever or entered into any agreements or arrangements with any person or entity.

2.5. Investments. No member of the Company Group or the Oldco Group owns, or since October 2, 1995 has owned, any shares of capital stock or other securities of, or interest in, any other Person, except as set forth in Schedule 2.2(c) and in Schedule 2.5(a) and as contemplated by the Recapitalization.

2.6. Financial Statements. (a) The Seller has delivered to the Buyer complete and correct copies of the Financial Statements.

(b) The Financial Statements are complete and correct in all respects, have been derived from the accounting books and records of the Oldco Group, and have been prepared in accordance with accounting principles applied by Oldco on a consistent basis throughout the periods presented in the Financial Statements subject, in the case of interim unaudited Financial Statements, only to normal recurring year-end adjustments.

(c) The balance sheets included in the Financial Statements present fairly the consolidated financial position of the Oldco Group as at the respective dates thereof, and the statements of income, statements of stockholder's equity and statements of cash flows included in such Financial Statements present fairly the results of operations and cash flows of the Oldco Group for the respective periods indicated.

2.7. Undisclosed Liabilities, etc. Immediately prior to the Recapitalization (other than with respect to Seller as to which no representation or warranty is made), no member of the Company Group has any liabilities or obligations of any nature, whether known, unknown, absolute, accrued, contingent or otherwise and whether due or to become due, except (a) as set forth in Schedule 2.7, (b) as and to the extent disclosed or reserved against in the Balance Sheet or specifically disclosed in the notes thereto and (c) for liabilities and obligations that (i) are incurred after the date of the Balance Sheet in the ordinary

course of business and are not prohibited by this Agreement and (ii) individually and in the aggregate, would not be material to any member of the Oldco Group or have or result in a Material Adverse Effect. Since the date of the Balance Sheet, there has not occurred or come to exist any Material Adverse Effect or any event, occurrence, fact, condition, change, development or effect that, individually or in the aggregate, could become or result in a Material Adverse Effect.

2.8. Absence of Changes. Since March 29, 1997, except (i) as set forth in Schedule 2.8 and (ii) in connection with the Recapitalization, no member of the Company Group has:

(a) declared, set aside, made or paid any dividend or other distribution in respect of its capital stock or otherwise purchased or redeemed, directly or indirectly, any shares of its capital stock;

(b) issued or sold any shares of any class of its capital stock, or any securities convertible into or exchangeable for any such shares, or issued, sold, granted or entered into any subscriptions, options, warrants, conversion or other rights, agreements, commitments, arrangements or understandings of any kind, contingently or otherwise, to purchase or otherwise acquire any such shares or any securities convertible into or exchangeable for any such shares;

(c) incurred any indebtedness for borrowed money, issued or sold any debt securities or prepaid any debt (including, without limitation, any borrowings from or prepayments to any member of the Seller Group) except for borrowings and repayments in the ordinary course of business;

(d) mortgaged, pledged or otherwise subjected to any Lien, any of its properties or assets, tangible or

intangible, except for Permitted Liens in the ordinary course of business;

(e) forgiven, cancelled, compromised, waived or released any debts, claims or rights, except for debts, claims and rights against Persons other than any member of the Seller Group, forgiven, cancelled, compromised, waived or released in the ordinary course of business;

(f) except in the ordinary course of business, modified any existing Contract or entered into any agreement or commitment that, pursuant to its terms, is not cancelable without penalty on less than 30 days' notice;

(g) except in the ordinary course of business, paid any bonus to any officer, director, employee, sales representative, agent or consultant, or granted to any officer, director, employee, sales representative, agent or consultant any other increase in compensation in any form;

(h) suffered any damage, destruction or loss (whether or not covered by insurance), or any strike or other employment-related problem, or any change in relations with or any loss of a supplier, customer or employee, that, individually or in the aggregate, would have or result in a Material Adverse Effect;

(i) amended any of its Organizational Documents;

(j) changed in any respect its accounting or Tax practices, policies or principles;

(k) incurred, assumed, guaranteed or otherwise become directly or indirectly liable with respect to any liability or obligation in excess of \$50,000 in each case or \$100,000 in the aggregate at any one time outstanding (whether absolute, accrued, contingent or otherwise and whether direct or indirect, or as guar-

antor or otherwise with respect to any liability or obligation of any other Person);

(l) except in the ordinary course of business, transferred or granted any rights or licenses under, or entered into any settlement regarding the infringement of, Company Intellectual Property or entered into any licensing or similar agreements or arrangements;

(m) sold any assets with a value in excess of \$50,000 in each case or \$100,000 in the aggregate, other than inventory in the ordinary course of business;

(n) made any material changes in policies or practices relating to selling practices, returns, discounts or other terms of sale or accounting therefor or in policies of employment; or

(o) taken any action or omitted to take any action that would result in the occurrence of any of the foregoing.

2.9. Tax Matters. (a) Each member of the Company Group and the Oldco Group have duly and timely withheld all Taxes required to be withheld in connection with the business or assets of such member, and such withheld Taxes have been either duly and timely paid to the proper governmental authorities or properly set aside in accounts for such purpose.

(b) The Buyer or any member of the Company Group will not be required to deduct and withhold any amount pursuant to Section 1445(a) of the Code upon any transfer pursuant to the Recapitalization including, without limitation, the Merger.

(c) There are no changes in methods of accounting effected on or before the Effective Date applicable to any member of the Company Group or the Oldco Group for which an adjustment under Section 481 of the Code or similar provi-

sions under state, local or foreign Tax law would be made after the Effective Date that would have the effect of materially increasing any Tax liabilities of any member of the Company Group after the Effective Date.

(d) No member of the Company Group or the Oldco Group is a party to or bound by or has any obligation under any Tax allocation, sharing, indemnity or similar agreement or arrangement.

2.10. Assets. Immediately prior to the Recapitalization, the Oldco Group owns, or otherwise has full, sufficient and legally enforceable rights to use, all of the properties and assets (real, personal or mixed, tangible or intangible), used or held for use in connection with, necessary for the conduct of, or otherwise material to, the Business (the "Assets"). The Oldco Group has good, valid and marketable title to, or in the case of leased property has good and valid leasehold interests in, all Assets that are material to the Business, including but not limited to all such Assets reflected in the Balance Sheet or acquired since the date thereof (except as may be disposed of in the ordinary course of business after the date hereof and in accordance with this Agreement), in each case free and clear of any Lien, except Permitted Liens. The Oldco Group has maintained the tangible Assets that are material to the Business in good repair, working order and operating condition subject only to ordinary wear and tear. Schedules 2.10, 2.11(a) and 2.11(b) together set forth a list of all tangible Assets that are material to the Business, including but not limited to buildings, machinery, equipment, computer hardware and motor vehicles, and identifies the location of such Assets.

2.11. Real Property. (a) Owned Real Property. No member of the Seller Group (other than Seller as to which no representation or warranty is made) owns any real property.

(b) Leases. As of immediately prior to the Recapitalization, Schedule 2.11(b) contains a complete and correct list of all Leases setting forth the address, landlord and tenant for each Lease. The Seller has delivered to the Buyer correct and complete copies of the Leases. Each Lease is legal, valid, binding, in full force and effect and enforceable against each party thereto, except to the extent that any failure to be so enforceable, individually and in the aggregate, would not have or result in a Material Adverse Effect, or to materially impair the ability of Oldco to perform its obligations hereunder and under the Recapitalization Agreements. No member of the Seller Group (other than Seller as to which no representation or warranty is made) is, and to Seller's knowledge, no other party is, in default, violation or breach in any respect under any Lease, and no event has occurred and is continuing that constitutes or, with notice or the passage of time or both, would constitute a default, violation or breach in any respect under any Lease. Each Lease grants the tenant under the Lease the exclusive right to use and occupy the premises and rights demised and intended to be demised thereunder. Each member of the Seller Group has good and valid title to the leasehold estate under its respective Leases free and clear of any Liens other than Permitted Liens. Each member of the Seller Group enjoys peaceful and undisturbed possession under its respective Leases for the Leased Real Property.

(c) Fee and Leasehold Interests, etc. The Real Property constitute all the fee and leasehold interests in real property held by Oldco, and constitutes all of the fee and leasehold interests in real property used or held for use in connection with, necessary for the conduct of, or otherwise material to, the Business.

(d) No Proceedings. To Seller's knowledge, there are no proceedings in eminent domain or other similar proceedings pending or, to the knowledge of any member of the Seller Group, threatened affecting any portion of the Real Property. To Seller's knowledge, there exists no writ, injunction, decree, order or judgment outstanding, nor any

Litigation, pending or threatened, relating to the ownership, lease, use, occupancy or operation by any Person of any Real Property.

(e) Current Use. The use and operation of the Real Property in the conduct of the Business does not violate in any material respect any instrument of record or agreement affecting the Real Property. There is no violation of any covenant, condition, restriction, easement or agreement or order of any Governmental Authority that affects the Real Property or the ownership, operation, use or occupancy thereof. No damage or destruction has occurred with respect to any of the Real Property.

2.12. Contracts. (a) Disclosure. Schedule 2.12(a) contains a complete and correct list, as of the date hereof, of all Contracts. The Seller has delivered to the Buyer complete and correct copies of all written Contracts, and accurate descriptions of all material terms of all oral Contracts, set forth or required to be set forth in Schedule 2.12(a).

(b) Enforceability. All Contracts are legal, valid, binding, in full force and effect and enforceable against each party thereto (subject to applicable bankruptcy and other similar laws and general principles of equity), except to the extent that any failure to be enforceable, individually and in the aggregate, would not have or result in a Material Adverse Effect. Except as set forth in Schedule 2.12(b), there does not exist under any Contract any violation, breach or event of default, or event or condition that, after notice or lapse of time or both, would constitute a violation, breach or event of default thereunder, on the part of any member of the Company Group or, to the knowledge of any member of the Seller Group, any other Person. Except as set forth in Schedule 2.12(b), the enforceability of all Contracts will not be affected in any manner by the execution, delivery or performance of this Agreement, and no Contract contains any change in control or other terms or conditions that will become applicable or

inapplicable as a result of the consummation of the transactions contemplated by this Agreement and the Recapitalization Agreements.

2.13. Intellectual Property; Technology. (a) Disclosure. Schedule 2.13(a) sets forth a complete and correct list of all Intellectual Property that is owned by any member of the Oldco Group immediately prior to the Recapitalization (the "Owned Intellectual Property") other than (i) inventions, trade secrets, processes, formulae, know-how or confidential business and technical information and (ii) Intellectual Property that is not registered or subject to application for registration and that is not material to the Business.

(b) Title. All of the Intellectual Property used or held for use in connection with, necessary for the conduct of, or otherwise material to, the Business (together with the Owned Intellectual Property, the "Company Intellectual Property"), is owned by a member of the Company Group, except for Company Intellectual Property used pursuant to the licenses and other agreements or arrangements that are set forth in Schedule 2.13(c) and (g). Except as set forth in Schedule 2.13(b), each member of the Company Group has the exclusive right to use the Company Intellectual Property for the life thereof free from (i) any Liens (except for Permitted Liens incurred in the ordinary course of business) and (ii) any requirement of any past, present or future royalty payments, license fees, charges or other payments, or conditions or restrictions whatsoever.

(c) Licensing and Similar Arrangements. Schedule 2.13(c) and (g) together set forth all written or oral agreements (i) pursuant to which any member of the Company Group has licensed Company Intellectual Property to, or the use of Company Intellectual Property is otherwise permitted (through non-assertion, settlement or similar agreements or otherwise) with respect to, any other Person (including any member of the Seller Group), and (ii) pursuant to which any member of the Company Group has had Intellectual Property

Nuera Communications, Inc.
Recapitalization and Merger Agreement
Dated as of December __, 1997

All capitalized terms in schedules hereto shall have the same meaning as defined in the Recapitalization and Merger Agreement.

Schedule 2.13 (a) List of Patents to License and Assign

The following sets forth a complete and correct list of all intellectual property that is owned by the Oldco:

The following sets forth a complete and correct list of all United States Patents:

<u>Patent Title</u>	<u>Inventors</u>	<u>Filing Date/ Serial No</u>	<u>Issue Date/ Patent No</u>
Adaptive Transform Coder Having Minimal Bit Allocation Procession	Philip J. Wilson	5/26/88 199,360	10/16/90 4,964,166
Speech Specific Adaptive Transform Coder	Philip J. Wilson	5/26/88 199,015	2/5/91 4,991,213
Adaptive Transform Coder Having Long Term Predictor	Philip J. Wilson Harprit Chhatwal	4/18/89 339,991	4/30/91 5,012,517
Methods and Apparatus for Reconstructing Non-Quantized Adaptively Transformed Voice Signals	Philip J. Wilson Harprit Chhatwal	4/18/89 339,809	8/20/91 5,042,069
Adaptive Speech Coder Having Code Excited Linear Prediction	Harprit Chhatwal	8/7/92 07/927,137	10/10/95 5,457,783
Method and Apparatus for Signal Classification Using I/Q Quadrant Histogram	Michael W. Fox David T.K. Wang	6/7/95 08/476,887	11/11/97 5,687,163
Matched Filters for Processing Related Signal Components	Naom Chaplik	12/13/95 08/571,596	4/1/97 5,617,063

The following sets forth a complete and correct list of all United States patent applications:

<u>Patent Title</u>	<u>Inventors</u>	<u>Filing Date/ Serial No</u>	<u>Issue Date/ Patent No</u>
Adaptive Speech Coder Having Code Excited Linear Prediction with Multiple Codebook Searches	Harprit Chhatwal	12/7/93 08/163,089	Pending
Adaptive Transform Coder Having Minimal Bit Allocation Processing	Philip J. Wilson	5/25/89 PCT/US89/02296	Pending
Adaptive Transform Coder Having Long Term Predictor	Philip J. Wilson Harprit Chhatwal	4/9/90 PCT/US90/01904	Pending

Nuera Communications, Inc.
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Methods and Apparatus for Reconstructing Non-Quantized Adaptively Transformed Voice Signals	Philip J. Wilson Harprit Chhatwal	4/9/90 PCT/US90/01905	Pending
Adaptive Speech Coder Having Code Excited Linear Prediction	Harprit Chhatwal	8/27/93 PCT/US93/08095	Pending
Adaptive Speech Coder Having Code Excited Linear Prediction with Multiple Codebook Searches	Harprit Chhatwal	12/7/94 PCT/US94/14078	Pending
Methods and Apparatus for Signal Classification Using I/Q Quadrant Histogram	Michael W. Fox David T.K. Wang	5/17/96 PCT/US96/07120	Pending

The following sets forth a complete and correct list of all foreign patents:

<u>Patent Title</u>	<u>Inventors</u>	<u>Filing Date/ Serial No</u>	<u>Issue Date/ Patent No</u>
Improved Adaptive Transform Coder (Canadian Patent)	Philip J. Wilson	05/23/89 600458	1/10/95 1,333,940
Methods and Apparatus for Reconstructing Non-Quantized Adaptively Transformed Voice Signals (European Patent)	Philip J. Wilson Harprit Chhatwal	4/9/90 90906553.4	9/11/96 0470975

The following sets forth a complete and correct list of all foreign patent applications:

<u>Patent Title</u>	<u>Inventors</u>	<u>Application No. and Jurisdiction</u>	<u>Filing Date</u>
Adaptive Transform Coder Having Minimal Bit Allocation Processing	Philip J. Wilson	89907458.7 (Europe)	5/25/89
Adaptive Transform Coder Having Minimal Bit Allocation Processing	Philip J. Wilson	96200973.4 (Europe)	5/25/89
Adaptive Transform Coder Having Minimal Bit Allocation Processing	Philip J. Wilson	01/506,838 (Japan)	5/25/89
Adaptive Transform Coder Having Long Term Predictor	Philip J. Wilson Harprit Chhatwal	90906644.1 (Europe)	4/9/90
Adaptive Transform Coder Having Long Term Predictor	Philip J. Wilson Harprit Chhatwal	02/506,450 (Japan)	4/9/90
Methods and Apparatus for Reconstructing	Philip J. Wilson	95202910.6	4/9/90

Nuera Communications, Inc.
Recapitalization and Merger Agreement
Dated as of December __, 1997

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Non-Quantized Adaptively Transformed Voice Signals	Harprit Chhatwal	(Europe)	
Methods and Apparatus for Reconstructing Non-Quantized Adaptively Transformed Voice Signals	Philip J. Wilson Harprit Chhatwal	02/506,203 (Japan)	4/9/90
Adaptive Speech Coder Having Code Excited Linear Prediction	Harprit Chhatwal	93920386.5 (Europe)	8/27/93
Adaptive Speech Coder Having Code Excited Linear Prediction	Harprit Chhatwal	07/507,532 (Japan)	8/27/93
Adaptive Speech Coder Having Code Excited Liner Prediction with Multiple Codebook Searches	Harprit Chhatwal	95904838.0 (Europe)	12/7/94
Adaptive Speech Coder Having Code Excited Liner Prediction with Multiple Codebook Searches	Harprit Chhatwal	2,178,073 (Canada)	12/7/94

The following sets forth complete and correct list of all trademarks that are owned by Oldco:

Jurisdiction: United States

<u>Registration #</u>	<u>Trademark</u>	<u>Registration Date</u>
1801905	CLARITY SERIES	11/2/93
1813456	FAX III	12/28/93
1937305	CLARITY VISION	11/21/95

<u>Application #</u>	<u>Trademark</u>	<u>Filing Date</u>
74547832	ACCESS PLUS	7/11/94
74683304	CLARITY	6/2/95
75012021	NUERA	10/30/95
75012022	BEST COST NETWORKS	10/30/95
75012023	BEST COST NETWORKING	10/30/95
75058743	NUERA AND DESIGN (Logo)	2/15/96

Jurisdiction: Canada

<u>Application #</u>	<u>Trademark</u>	<u>Filing Date</u>
0820,700	N NUERA (and design)	8/15/96

Jurisdiction: European Community

Nuera Communications, Inc.
Recapitalization and Merger Agreement
Dated as of December __, 1997

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<u>Application #</u>	<u>Trademark</u>	<u>Filing Date</u>
335745	N (and design)	8/16/96
21733	NUERA	4/1/96

Nuera UK

None

Nuera Singapore Representative Office

None

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Oldco claims copyright rights in its proprietary software, publications in all media and Web site.

Domain Name

www.nuera.com