

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended May 2, 2010

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_ to \_\_\_

Commission file number 0-15451



**PHOTRONICS, INC.**

*(Exact name of registrant as specified in its charter)*

**Connecticut**  
*(State or other jurisdiction  
of incorporation or organization)*

**06-0854886**  
*(IRS Employer  
Identification Number)*

**15 Secor Road, Brookfield, Connecticut 06804**  
*(Address of principal executive offices and zip code)*

**(203) 775-9000**  
*(Registrant's telephone number, including area code)*

Securities registered pursuant to Section 12(b) of the Act: **Common Stock, \$0.01 par value per share - NASDAQ Global Select Market**

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter periods that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer  Accelerated Filer  Non-Accelerated Filer  Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class  
**Common Stock, \$0.01 par value**

Outstanding at June 1, 2010  
**53,620,694 Shares**

## Forward-Looking Statements

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements made by or on behalf of Photronics, Inc. ("Photronics" or the "Company"). These statements are based on management's beliefs, as well as assumptions made by, and information currently available to, management. Forward-looking statements may be identified by words like "expect", "anticipate", "believe", "plan", "projects", and similar expressions. All forward-looking statements involve risks and uncertainties that are difficult to predict. In particular, any statement contained in this quarterly report on Form 10-Q, in press releases, written statements, or other documents filed with the Securities and Exchange Commission or, in the Company's communications and discussions with investors and analysts in the normal course of business through meetings, phone calls, or conference calls, regarding the consummation and benefits of future acquisitions, expectations with respect to future sales, financial performance, operating efficiencies, or product expansion, are subject to known and unknown risks, uncertainties, and contingencies, many of which are beyond the control of the Company. These factors may cause actual results, performance, or achievements to differ materially from anticipated results, performance, or achievements. Factors that might affect such forward-looking statements include, but are not limited to, overall economic and business conditions; economic and political conditions in international markets; the demand for the Company's products; competitive factors in the industries and geographic markets in which the Company competes; changes in federal, state and international tax requirements (including tax rate changes, new tax laws and revised tax law interpretations); interest rate fluctuations and other capital market conditions, including changes in the market price of the Company's common stock; foreign currency exchange rate fluctuations; changes in technology; the timing, impact, and other uncertainties of future acquisitions; the seasonal and cyclical nature of the semiconductor and flat panel display industries; management changes; damage or destruction to the Company's facilities by natural disasters, labor strikes, political unrest, or terrorist activity; the ability of the Company to place new equipment in service on a timely basis; obtain additional financing; achieve anticipated synergies and other cost savings in connection with acquisitions and productivity programs; fully utilize its tools; achieve desired yields, pricing, product mix, and market acceptance of its products; and obtain necessary export licenses. Any forward-looking statements should be considered in light of these factors. Accordingly, there is no assurance that the Company's expectations will be realized. The Company does not assume responsibility for the accuracy and completeness of the forward-looking statements and does not assume an obligation to provide revisions to any forward-looking statements except as otherwise required by securities and other applicable laws.

**PHOTRONICS, INC.  
AND SUBSIDIARIES**

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**PART I. FINANCIAL INFORMATION**

**Item 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**PHOTRONICS, INC. AND SUBSIDIARIES**  
 Condensed Consolidated Balance Sheets  
*(in thousands, except per share amounts)*  
*(unaudited)*

	<b>May 2, 2010</b>	<b>November 1, 2009</b>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 91,410	\$ 88,539
Accounts receivable, net of allowance of \$3,434 in 2010 and \$2,669 in 2009	81,247	66,920
Inventories	15,861	14,826
Deferred income taxes	3,509	3,264
Other current assets	6,403	6,448
<b>Total current assets</b>	<b>198,430</b>	<b>179,997</b>
Property, plant and equipment, net	360,108	347,889
Investment in joint venture	60,901	60,945
Intangible assets, net	50,794	55,054
Other assets	19,175	19,771
	<b>\$ 689,408</b>	<b>\$ 663,656</b>
<b>LIABILITIES AND EQUITY</b>		
Current liabilities:		
Current portion of long-term borrowings	\$ 11,364	\$ 10,301
Accounts payable	68,317	59,187
Accrued liabilities	25,700	20,967
<b>Total current liabilities</b>	<b>105,381</b>	<b>90,455</b>
Long-term borrowings	96,897	112,137
Deferred income taxes	1,342	1,487
Other liabilities	9,619	9,881
<b>Total liabilities</b>	<b>213,239</b>	<b>213,960</b>
Commitments and contingencies		
Equity:		
Preferred stock, \$0.01 par value, 2,000 shares authorized, none issued and outstanding	-	-
Common stock, \$0.01 par value, 150,000 shares authorized, 53,497 shares issued and outstanding at May 2, 2010 and 53,011 at November 1, 2009	535	530
Additional paid-in capital	434,976	432,160
Accumulated deficit	(18,460)	(26,546)
Accumulated other comprehensive income (loss)	6,218	(6,389)
<b>Total Photronics, Inc. shareholders' equity</b>	<b>423,269</b>	<b>399,755</b>
Noncontrolling interests	52,900	49,941
<b>Total equity</b>	<b>476,169</b>	<b>449,696</b>
	<b>\$ 689,408</b>	<b>\$ 663,656</b>

See accompanying notes to condensed consolidated financial statements.

**PHOTRONICS, INC. AND SUBSIDIARIES**  
Condensed Consolidated Statements of Operations  
*(in thousands, except per share amounts)*  
*(unaudited)*

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>	<b>May 2, 2010</b>	<b>May 3, 2009</b>
Net sales	\$ 105,070	\$ 83,232	\$ 203,267	\$ 171,275
Costs and expenses:				
Cost of sales	(82,980)	(71,792)	(163,000)	(149,275)
Selling, general and administrative	(10,870)	(10,630)	(21,018)	(21,032)
Research and development	(3,601)	(4,177)	(7,556)	(7,801)
Consolidation, restructuring and related (charges) credits	5,029	(406)	4,836	(2,086)
Impairment of long-lived assets	-	(1,458)	-	(1,458)
Operating income (loss)	12,648	(5,231)	16,529	(10,377)
Other income (expense):				
Interest expense	(3,059)	(4,430)	(5,981)	(9,076)
Investment and other income (expense), net	876	(571)	1,345	451
Income (loss) before income taxes	10,465	(10,232)	11,893	(19,002)
Income tax (provision) benefit	(1,860)	76	(2,880)	(1,122)
Net income (loss)	8,605	(10,156)	9,013	(20,124)
Net (income) loss attributable to noncontrolling interests	(732)	84	(927)	(181)
Net income (loss) attributable to Photronics, Inc.	\$ 7,873	\$ (10,072)	\$ 8,086	\$ (20,305)
Earnings (loss) per share:				
Basic	\$ 0.15	\$ (0.24)	\$ 0.15	\$ (0.49)
Diluted	\$ 0.14	\$ (0.24)	\$ 0.15	\$ (0.49)
Weighted-average number of common shares outstanding:				
Basic	53,405	41,775	53,253	41,749
Diluted	65,780	41,775	54,291	41,749

See accompanying notes to condensed consolidated financial statements.

**PHOTRONICS, INC. AND SUBSIDIARIES**  
Condensed Consolidated Statements of Cash Flows  
*(in thousands)*  
*(unaudited)*

	<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>
<b>Cash flows from operating activities:</b>		
Net income (loss)	\$ 9,013	\$ (20,124)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	45,863	42,027
Consolidation, restructuring and related charges (credits)	(5,059)	2,086
Impairment of long-lived assets	-	1,458
Changes in assets and liabilities:		
Accounts receivable	(12,918)	5,952
Inventories	(592)	756
Other current assets	1,199	2,284
Accounts payable, accrued liabilities, and other	(3,743)	(8,090)
Net cash provided by operating activities	<u>33,763</u>	<u>26,349</u>
<b>Cash flows from investing activities:</b>		
Purchases of property, plant and equipment	(31,003)	(20,375)
Proceeds from sale of facility	12,880	-
Increase in restricted cash	(1,250)	-
Proceeds from sales of investments and other	255	941
Distribution from joint venture	-	5,000
Net cash used in investing activities	<u>(19,118)</u>	<u>(14,434)</u>
<b>Cash flows from financing activities:</b>		
Repayments of long-term borrowings	(40,302)	(10,889)
Proceeds from long-term borrowings	26,622	-
Payments of deferred financing fees	(1,056)	(2,249)
Other	71	-
Net cash used in financing activities	<u>(14,665)</u>	<u>(13,138)</u>
Effect of exchange rate changes on cash	2,891	(1,052)
Net increase (decrease) in cash and cash equivalents	2,871	(2,275)
Cash and cash equivalents at beginning of period	88,539	83,763
Cash and cash equivalents at end of period	<u>\$ 91,410</u>	<u>\$ 81,488</u>
<b>Supplemental disclosure of cash flow information:</b>		
Change in accrual for purchases of property, plant and equipment	\$ 19,521	\$ (14,542)

See accompanying notes to condensed consolidated financial statements.

**PHOTRONICS, INC. AND SUBSIDIARIES**  
**Notes to Condensed Consolidated Financial Statements**  
**Three and Six Months Ended May 2, 2010 and May 3, 2009**  
**(unaudited)**  
**(in thousands, except share amounts)**

**NOTE 1 - BASIS OF FINANCIAL STATEMENT PRESENTATION**

Photronics, Inc. and its subsidiaries ("Photronics" or the "Company") is one of the world's leading manufacturers of photomasks, which are high precision photographic quartz plates containing microscopic images of electronic circuits. Photomasks are a key element in the manufacture of semiconductors and flat panel displays ("FPDs"), and are used as masters to transfer circuit patterns onto semiconductor wafers and flat panel substrates during the fabrication of integrated circuits ("ICs") and a variety of FPDs and, to a lesser extent, other types of electrical and optical components. The Company currently operates principally from nine manufacturing facilities, two of which are located in Europe, two in Taiwan, one in Korea, one in Singapore, and three in the United States.

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for annual financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the interim period are not necessarily indicative of the results that may be expected for the fiscal year ending October 31, 2010. For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's Annual Report on Form 10-K for the year ended November 1, 2009.

Certain amounts in the November 1, 2009 condensed consolidated financial statements were reclassified to conform with the current period presentation related to noncontrolling interests (see Note 2).

**NOTE 2 - CHANGES IN EQUITY AND COMPREHENSIVE INCOME (LOSS)**

On November 2, 2009, the Company adopted new accounting standards for noncontrolling interests as set forth in the Consolidation Topic No. 810 of the Accounting Standards Codification. These standards require companies to classify expenses related to noncontrolling interests' share in income (loss) below net income (loss). Earnings per share continues to be determined after the impact of the noncontrolling interests' share in net income (loss) of the Company. In addition, these standards require noncontrolling interests to be presented as a separate caption within equity. The presentation and disclosure requirements of these standards were retrospectively applied. The adoption of these standards resulted in the reclassification of \$49.9 million of noncontrolling interests in the condensed consolidated balance sheet to equity on November 2, 2009.

The following tables set forth the Company's consolidated changes in equity for the three and six months ended May 2, 2010 and May 3, 2009:

	Three Months Ended May 2, 2010							
	Photronics, Inc. Shareholders							
	Common Stock		Add'l	Accumulated		Total	Non-	Total
	Shares	Amount	Paid-in Capital	Accumulated Deficit	Other Comprehensive Income	Photronics, Inc.	controlling Interests	Equity
<b>Balance at January 31, 2010</b>	53,281	\$ 533	\$ 433,632	\$ (26,333)	\$ (444)	\$ 407,388	\$ 51,051	\$ 458,439
Comprehensive income:								
Net income	-	-	-	7,873	-	7,873	732	8,605
Unrealized holding gain	-	-	-	-	76	76	56	132
Amortization of cash flow hedges	-	-	-	-	33	33	-	33
Foreign currency translation adjustments	-	-	-	-	6,553	6,553	1,061	7,614
<b>Total comprehensive income</b>	-	-	-	-	-	14,535	1,849	16,384
Sale of common stock through employee stock option and purchase plans	53	1	74	-	-	75	-	75
Share-based compensation expense	1	-	454	-	-	454	-	454
Common stock warrants exercised	162	1	816	-	-	817	-	817
<b>Balance at May 2, 2010</b>	53,497	\$ 535	\$ 434,976	\$ (18,460)	\$ 6,218	\$ 423,269	\$ 52,900	\$ 476,169

	Three Months Ended May 3, 2009							
	Photronics, Inc. Shareholders							
	Common Stock		Add'l	Accumulated		Total	Non-	Total
	Shares	Amount	Paid-in Capital	Accumulated Deficit	Other Comprehensive Loss	Photronics, Inc.	controlling Interests	Equity
<b>Balance at February 1, 2009</b>	41,757	\$ 418	\$ 385,188	\$ 5,131	\$ (33,052)	\$ 357,685	\$ 48,608	\$ 406,293
Comprehensive income:								
Net loss	-	-	-	(10,072)	-	(10,072)	(84)	(10,156)
Unrealized holding gains	-	-	-	-	15	15	-	15
Amortization of cash flow hedges	-	-	-	-	32	32	-	32
Foreign currency translation adjustments	-	-	-	-	10,998	10,998	712	11,710
<b>Total comprehensive income</b>	-	-	-	-	-	973	628	1,601
Sale of common stock through employee stock option and purchase plans	-	-	15	-	-	15	-	15
Share-based compensation expense	20	-	623	-	-	623	-	623
Noncontrolling interests' subsidiary dividend	-	-	-	-	-	-	(437)	(437)
<b>Balance at May 3, 2009</b>	41,777	\$ 418	\$ 385,826	\$ (4,941)	\$ (22,007)	\$ 359,296	\$ 48,799	\$ 408,095



## Six Months Ended May 2, 2010

	Photronics, Inc. Shareholders							
	Common Stock		Add'l Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Total Photronics, Inc.	Non- controlling Interests	Total Equity
	Shares	Amount						
<b>Balance at November 1, 2009</b>	53,011	\$ 530	\$ 432,160	\$ (26,546)	\$ (6,389)	\$ 399,755	\$ 49,941	\$ 449,696
Comprehensive income:								
Net income	-	-	-	8,086	-	8,086	927	9,013
Unrealized holding gain	-	-	-	-	76	76	56	132
Amortization of cash flow hedges	-	-	-	-	65	65	-	65
Foreign currency translation adjustments	-	-	-	-	12,466	12,466	1,976	14,442
<b>Total comprehensive income</b>						<b>20,693</b>	<b>2,959</b>	<b>23,652</b>
Sale of common stock through employee stock option and purchase plans	93	1	104	-	-	105	-	105
Share-based compensation expense	43	-	1,031	-	-	1,031	-	1,031
Common stock warrants exercised	350	4	1,681	-	-	1,685	-	1,685
<b>Balance at May 2, 2010</b>	<b>53,497</b>	<b>\$ 535</b>	<b>\$ 434,976</b>	<b>\$ (18,460)</b>	<b>\$ 6,218</b>	<b>\$ 423,269</b>	<b>\$ 52,900</b>	<b>\$ 476,169</b>

## Six Months Ended May 3, 2009

	Photronics, Inc. Shareholders							
	Common Stock		Add'l Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Photronics, Inc.	Non- controlling Interests	Total Equity
	Shares	Amount						
<b>Balance at November 2, 2008</b>	41,712	\$ 417	\$ 384,502	\$ 15,364	\$ (17,501)	\$ 382,782	\$ 49,616	\$ 432,398
Comprehensive income:								
Net income(loss)	-	-	-	(20,305)	-	(20,305)	181	(20,124)
Unrealized holding gains	-	-	-	-	90	90	39	129
Amortization of cash flow hedges	-	-	-	-	513	513	-	513
Foreign currency translation adjustments	-	-	-	-	(5,109)	(5,109)	(600)	(5,709)
<b>Total comprehensive loss</b>						<b>(24,811)</b>	<b>(380)</b>	<b>(25,191)</b>
Sale of common stock through employee stock option and purchase plans	-	-	38	-	-	38	-	38
Share-based compensation expense	65	1	1,286	-	-	1,287	-	1,287
Noncontrolling interests' subsidiary dividend	-	-	-	-	-	-	(437)	(437)
<b>Balance at May 3, 2009</b>	<b>41,777</b>	<b>\$ 418</b>	<b>\$ 385,826</b>	<b>\$ (4,941)</b>	<b>\$ (22,007)</b>	<b>\$ 359,296</b>	<b>\$ 48,799</b>	<b>\$ 408,095</b>

### NOTE 3 - JOINT VENTURE

On May 5, 2006, Photronics and Micron Technology, Inc. ("Micron") entered into the MP Mask joint venture, which develops and produces photomasks for leading-edge and advanced next generation semiconductors. As part of the formation of the joint venture, Micron contributed its existing photomask technology center located at its Boise, Idaho, headquarters to MP Mask and Photronics invested \$135 million in exchange for a 49.99% interest in MP Mask (to which \$64.2 million of the original investment was allocated), a license for photomask technology of Micron, and certain supply agreements.

This joint venture is a variable interest entity (as that term is defined in the Accounting Standards Codification) primarily because all costs of the joint venture will be passed on to the Company and Micron through purchase agreements they have entered into with the joint venture. The Company determined that, in regards to this variable interest entity ("VIE"), it and Micron are de facto agents (as that term is defined in the Accounting Standards Codification) and that Micron is the primary beneficiary of the VIE as it is the de facto agent within the aggregated group of de facto agents (i.e. the Company and Micron) that is the most closely associated with the VIE. The primary reasons the Company concluded that Micron is the most closely associated of the de facto agents to the VIE are that Micron is both the ultimate purchaser of substantially all of the products produced by the VIE and that it is the holder of decision making authority in the ordinary course of business.

The Company has utilized MP Mask for both high-end IC photomask production and research and development purposes. MP Mask charges its variable interest holders based on their actual usage of its facility. MP Mask separately charges for any research and development activities it engages in at the requests of its owners. The Company recorded cost of sales of \$1.5 million and \$2.7 million and research and development expenses of \$0.2 million and \$0.5 million during the three and six month periods ended May 2, 2010. Cost of sales of \$0.9 million and \$1.2 million and research and development expenses of \$0.3 million and \$0.8 million were recorded during the three and six month periods ended May 3, 2009.

MP Mask is governed by a Board of Managers, appointed by Micron and the Company. Since MP Mask's inception, Micron, as a result of its majority ownership, has appointed the majority of its managers. The number of managers appointed by each party is subject to change as ownership interests change. Under the operating agreement relating to the MP Mask joint venture, in order to maintain its 49.99% interest, the Company may be required to make additional capital contributions to the joint venture up to the maximum amount defined in the operating agreement. However, should the Board of Managers determine that further additional funding is required, the joint venture shall pursue its own financing. If the joint venture is unable to obtain its own financing, it may request additional capital contributions from the Company. Should the Company choose not to make a requested contribution to the joint venture, its ownership interest may be reduced. The Company received no distributions from MP Mask during the three and six month periods ended May 2, 2010, and received a \$5 million distribution during the three and six month periods ended May 3, 2009. The Company made no contributions to MP Mask during the three and six month periods ended May 2, 2010 and May 3, 2009.

The Company's investment in the VIE, which represents its maximum exposure to loss, was \$60.9 million at May 2, 2010 and November 1, 2009. These amounts are reported in the Company's condensed consolidated balance sheets as "Investment in joint venture".

**NOTE 4 - EARNINGS (LOSS) PER SHARE**

The calculation of basic and diluted earnings (loss) per share is presented below.

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>	<b>May 2, 2010</b>	<b>May 3, 2009</b>
Net income (loss) attributable to Photonics, Inc.	\$ 7,873	\$ (10,072)	\$ 8,086	\$ (20,305)
Effect of dilutive securities:				
Interest expense on convertible notes, net of related tax effects	1,016	-	-	-
Earnings (loss) for diluted earnings (loss) per share	\$ 8,889	\$ (10,072)	\$ 8,086	\$ (20,305)
Weighted-average common shares computations:				
Weighted-average common shares used for basic earnings (loss) per share	53,405	41,775	53,253	41,749
Effect of dilutive securities:				
Convertible notes	11,311	-	-	-
Employee stock options and restricted shares	989	-	990	-
Common stock warrants	75	-	48	-
Potentially dilutive common shares	12,375	-	1,038	-
Weighted-average common shares used for diluted earnings (loss) per share	65,780	41,775	54,291	41,749
Basic earnings (loss) per share	\$ 0.15	\$ (0.24)	\$ 0.15	\$ (0.49)
Diluted earnings (loss) per share	\$ 0.14	\$ (0.24)	\$ 0.15	\$ (0.49)

The table below shows the outstanding weighted-average employee stock options, restricted shares and common stock warrants that were excluded from the calculation of diluted earnings per share because their exercise price exceeded the average market value of the common shares for the period or, under application of the treasury stock method, they were otherwise determined to be anti-dilutive. The table also shows convertible notes that, if converted, would have been anti-dilutive.

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>	<b>May 2, 2010</b>	<b>May 3, 2009</b>
Convertible notes	-	-	11,311	-
Employee stock options and restricted shares	2,844	2,193	2,652	2,200
Common stock warrants	747	-	854	-
Total potentially dilutive shares excluded	3,591	2,193	14,817	2,200

In periods in which the Company incurred a net loss, the assumed exercise of certain outstanding employee stock options and the vesting of restricted shares had an antidilutive effect. Had the Company recognized sufficient net income, there would have been 0.1 million and 0.3 million of incremental weighted-average shares of these employee stock options and restricted shares outstanding during the three and six month periods ended May 3, 2009, respectively.

## NOTE 5 - SHARE-BASED COMPENSATION PLANS

In March 2007, the Company's shareholders approved a new share-based compensation plan ("Plan"), under which options, restricted stock, restricted stock units, stock appreciation rights, performance stock, performance units, and other awards based on, or related to, shares of the Company's common stock may be granted from shares authorized but unissued, shares previously issued and reacquired by the Company, or both. The maximum number of shares of common stock approved by the Company's shareholders to be issued under the Plan was increased from three million shares to six million shares during the three month period ended May 2, 2010. Awards may be granted to officers, employees, directors, consultants, advisors, and independent contractors of the Company or its subsidiaries. The Plan, aspects of which are more fully described below, prohibits further awards from being issued under prior plans. The Company incurred compensation cost under the Plan for the three and six month periods ended May 2, 2010 of \$0.3 million and \$0.8 million, respectively, and \$0.6 million and \$1.3 million for the three and six month periods ended May 3, 2009, respectively. The Company received cash from option exercises of \$0.1 million for the three and six month periods ended May 2, 2010, respectively, and did not receive any cash from option exercises during the three and six month periods ended May 3, 2009. No share-based compensation cost was capitalized as part of inventory and no related income tax benefits were recorded during the periods presented.

### Stock Options

Option awards generally vest in one to four years, and have a ten-year contractual term. All incentive and non-qualified stock option grants have an exercise price equal to the market value of the underlying common stock on the date of grant. The option and share awards provide for accelerated vesting if there is a change in control as defined in the Plan.

The grant date fair value of options is based upon the closing price on the date of grant using the Black-Scholes option pricing model. Expected volatility is based on the historical volatility of the Company's stock. The Company uses historical option exercise behavior and employee termination data to estimate expected term, which represents the period of time that the options granted are expected to remain outstanding. The risk-free rate of return for the estimated term of the option is based on the U.S. Treasury yield curve in effect at the time of grant. Inputs used to calculate the grant date fair value of options issued during the three month and six month periods ended May 2, 2010 and May 3, 2009, are presented in the following table.

	Three Months Ended		Six Months Ended	
	May 2, 2010	May 3, 2009	May 2, 2010	May 3, 2009
Expected volatility	N/A	82.1%	89.3%	69.8%
Risk free rate of return	N/A	1.9%	2.2 – 2.4%	2.5%
Dividend yield	N/A	0.0%	0.0%	0.0%
Expected term	N/A	4.7 years	4.5 years	4.7 years

A summary of option awards under the plan as of May 2, 2010 is presented below.

Options	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value
Outstanding at May 2, 2010	4,013,990	\$ 9.95	6.6 years	\$ 6,804
Exercisable at May 2, 2010	2,014,230	\$ 16.69	4.4 years	\$ 1,133

There were no share options granted during the three month period ended May 2, 2010. There were 5,000 share options granted with a weighted-average grant date fair value of \$0.84 during the three month period ended May 3, 2009. There were 846,400 share options granted during the six month period ended May 2, 2010, with a weighted-average grant date fair value of \$2.97 per share and 1,348,250 share options granted during the six month period ended May 3, 2009, with a weighted-average grant date fair value of \$0.44 per share. As of May 2, 2010, the total unrecognized compensation cost related to non-vested option awards was approximately \$2.4 million. That cost is expected to be recognized over a weighted-average amortization period of 3.2 years.

## Restricted Stock

The Company periodically grants restricted stock awards. The restrictions on these awards lapse over a service period that has ranged from less-than-one to eight years. No restricted stock awards were issued during the three or six month periods ended May 2, 2010 or during the three month period ended May 3, 2009, and 75,000 shares with a weighted-average grant date fair value of \$0.76 per share were granted during the six months ended May 3, 2009. As of May 2, 2010, the total compensation cost related to nonvested restricted stock awards not yet recognized was approximately \$1.5 million. That cost is expected to be recognized over a weighted-average amortization period of 3.3 years. A summary of the status of the Company's non-vested restricted shares as of May 2, 2010 is presented below.

Restricted Stock	Shares	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value
Outstanding at May 2, 2010	114,335	3.1 years	\$ 623

## NOTE 6 - CONSOLIDATION, RESTRUCTURING AND RELATED CHARGES

### Shanghai, China, Facility

During the three months ended August 2, 2009, the Company ceased the manufacture of photomasks at its Shanghai, China, facility. In connection with this restructuring, the Company has recorded total net charges of \$5.4 million through May 2, 2010, including \$4.2 million of net asset write-downs. The fair value of the assets written down was determined by management using a market approach. Approximately 75 employees were affected by this restructuring.

The Company recorded an initial restructuring charge of \$10.1 million during the three month period ended August 2, 2009, which included \$7.7 million to write down the carrying value of the Company's Shanghai manufacturing facility to its estimated fair value at that time. During the three months ended May 2, 2010, the Company sold its facility in Shanghai, China, for net proceeds of \$12.9 million which resulted in a gain of \$5.2 million. This gain was recorded as a credit to the restructuring reserve during the three months ended May 2, 2010.

The Company expects this restructuring to be completed during the third quarter of fiscal 2010, and does not expect the remaining restructuring costs to be significant. The following table sets forth the Company's restructuring reserve related to its Shanghai, China, facility as of May 2, 2010, and reflects the activity affecting the reserve for the three and six month periods then ended. The remaining balance at May 2, 2010 primarily relates to expenses incurred relating to the sale of the facility.

	Three Months Ended May 2, 2010				Six Months Ended May 2, 2010			
	February 1, 2010	Charges (credit)	Utilized	May 2, 2010	November 2, 2009	Charges (credit)	Utilized	May 2, 2010
Net gain on sales of assets	\$ -	\$ (5,020)	\$ 5,238	\$ 218	\$ -	\$ (5,020)	\$ 5,238	\$ 218
Employee terminations and other	-	(9)	9	-	134	184	(318)	-
	\$ -	\$ (5,029)	\$ 5,247	\$ 218	\$ 134	\$ (4,836)	\$ 4,920	\$ 218

Manchester, U.K., Facility

During the three months ended February 1, 2009, the Company ceased the manufacture of photomasks at its Manchester, U.K., facility and, in connection therewith, incurred total restructuring charges of \$3.3 million through its completion in the fourth quarter of fiscal 2009, primarily for employee termination costs and asset write-downs. Approximately 85 employees were affected by this restructuring. The following table sets forth the Company's 2009 restructuring reserve related to its Manchester, U.K., facility as of May 3, 2009, and reflects the activity affecting the reserve for the three and six month periods then ended.

	Three Months Ended			Six Months Ended				
	May 3, 2009			May 3, 2009				
	February 1, 2009	Charges	Utilized	May 3, 2009	November 2, 2008	Charges	Utilized	May 3, 2009
Employee terminations	\$ -	\$ 328	\$ (328)	\$ -	\$ -	\$ 1,390	\$ (1,390)	\$ -
Asset write-downs and other	154	78	(232)	-	-	696	(696)	-
	<u>\$ 154</u>	<u>\$ 406</u>	<u>\$ (560)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,086</u>	<u>\$ (2,086)</u>	<u>\$ -</u>

**NOTE 7 - INCOME TAXES**

The effective income tax rates differ from the amount computed by applying the U.S. statutory rate of 35% to the income (loss) before income taxes primarily because income tax provisions incurred in jurisdictions where the Company generated income before income taxes were, due to valuation allowances, not significantly offset by income tax benefits in jurisdictions where the Company incurred losses before income taxes. Further, various investment tax credits have been utilized in Korea and Taiwan which reduced the Company's effective income tax rate.

The Company accounts for uncertain tax positions by recording a liability for unrecognized tax benefits resulting from uncertain tax positions taken, or expected to be taken, in its tax returns. The Company recognizes any interest and penalties related to uncertain tax positions in the income tax provision in its condensed consolidated statement of operations.

As of May 2, 2010 and November 1, 2009, the gross unrecognized tax benefits for income taxes associated with uncertain tax positions totaled approximately \$2.0 million (including interest and penalties of \$0.4 million). If recognized, the benefits would favorably impact the Company's effective tax rate in future periods. As of May 2, 2010, the Company believes it is not reasonably possible that the total amounts of unrecognized benefits will significantly increase or decrease in the next twelve months.

Currently, the statutes of limitations remain open subsequent to and including 2006 in the U.S., 2007 in the U.K., 2008 in Germany and 2005 in Korea.

**NOTE 8 - DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES**

The Company utilizes derivative instruments to reduce its exposure to the effects of the variability of interest rates and foreign currencies on its financial performance when it believes such action is warranted. Historically, the Company has been a party to derivative instruments to hedge either the variability of cash flows of a prospective transaction or the fair value of a recorded asset or liability. In certain instances, the Company has designated these transactions as hedging instruments. However, whether or not a derivative was designated as being a hedging instrument, the Company's purpose for engaging in the derivative has always been for risk management (and not speculative) purposes. The Company has historically not been a party to a significant number of derivative instruments and does not expect its derivative activity to significantly increase in the foreseeable future.

In addition to the utilization of derivative instruments discussed above, the Company attempts to minimize its risk of foreign currency exchange rate variability by, whenever possible, procuring production materials within the same country that it will utilize the materials in manufacturing, and by selling to customers from manufacturing sites within the country in which the customers are located.

On May 15, 2009, in connection with an amendment to its credit facility, the Company issued 2.1 million warrants, each exercisable for one share of the Company's common stock at an exercise price of \$0.01 per share. Forty percent of the warrants were exercisable upon issuance, and the remaining balance was to become exercisable in twenty percent increments at various points in time after October 31, 2009. As a result of certain net cash settleable put provisions within the warrant agreement, the warrants were recorded as a liability in the Company's consolidated balance sheet. As of the issuance date and for future periods that such warrants remain outstanding, the Company has, and will continue to, adjust the liability based upon the current fair value of the warrants, with any changes in their fair value being recognized in earnings. Due to the warrants' exercise price of \$0.01 per share, their fair value will approximate the market price of the Company's common stock. Approximately 1.2 million of these warrants were cancelled as a result of the Company's early repayment of certain amounts under its credit facility during the year ended November 1, 2009, and the associated liability was reduced accordingly.

The Company was a party to two foreign currency forward contracts which expired during the year ended November 1, 2009, both of which were not accounted for as hedges, as they were economic hedges of intercompany loans denominated in U.S. dollars that were remeasured at fair value and recognized immediately in earnings. A portion of an existing loss on a cash flow hedge in the amount of \$0.1 million is expected to be reclassified into earnings over the next twelve months.

The table below presents the effect of derivative instruments on the Company's condensed consolidated balance sheets at May 2, 2010 and November 1, 2009.

Derivatives Not Designated as Hedging Instruments Under ASC 815	Balance Sheet Location	Fair Value at	
		May 2, 2010	November 1, 2009
Warrants on common stock	Other liabilities	\$ 2,272	\$ 3,205

The table below presents the effect of derivative instruments on the Company's condensed consolidated statements of operations for the three and six month periods ended May 2, 2010 and May 3, 2009.

Derivatives Not Designated as Hedging Instruments Under ASC 815	Location of Gain (Loss) Recognized in Income on Derivatives	Amount of Gain (Loss) Recognized in Income on Derivatives			
		Three Months Ended		Six Months Ended	
		May 2, 2010	May 3, 2009	May 2, 2010	May 3, 2009
Warrants on common stock	Investment and other income (expense), net	\$ (860)	\$ -	\$ (751)	\$ -
Foreign exchange contracts	Investment and other income (expense), net	\$ -	\$ (425)	\$ -	\$ 93

**NOTE 9 - LONG-TERM BORROWINGS**

Long-term borrowings consist of the following:

	May 2, 2010	November 1, 2009
5.5% convertible senior notes due on October 1, 2014	\$ 57,500	\$ 57,500
Borrowings under revolving credit facility, which bears interest at a variable rate, as defined (4.31% at May 2, 2010 and 8.0% at November 1, 2009)	17,000	2,568
8.0% capital lease obligation payable through January 2013	19,449	22,552
5.6% capital lease obligation payable through October 2012	10,987	12,614
4.75% financing loan with customer	3,325	-
Term loan which bore interest at a variable rate as defined (8.0% at November 1, 2009)	-	27,204
	108,261	122,438
Less current portion	11,364	10,301
	<u>\$ 96,897</u>	<u>\$ 112,137</u>

On February 12, 2010, the Company amended its revolving credit facility, which was originally established on June 6, 2007, to a three-year \$50 million revolving credit facility ("the credit facility") with an expansion option up to \$65 million. At the time of the amendment, the then existing revolving credit facility and term loan were repaid in full with borrowings from the credit facility of \$20.8 million, and in connection therewith the Company wrote off \$1.0 million of deferred financing fees. Net repayments made towards the credit facility during the three month period ended May 2, 2010 further reduced the outstanding balance of the facility to \$17 million and increased the unused commitment to \$33 million as of May 2, 2010. The credit facility bears interest at LIBOR plus a spread, as defined in the agreement (4.31% at May 2, 2010) based upon the Company's total leverage ratio. On May 7, 2010, the revolving credit facility was amended to expand its capacity from \$50 million to \$65 million. On May 18, 2010, the Company paid \$12 million towards its revolving credit balance, which resulted in an outstanding balance of \$5 million and an unused available balance of \$60 million.

The credit facility, which matures on February 12, 2013, is secured by substantially all of the Company's assets in the United States as well as common stock the Company owns in certain of its foreign subsidiaries. The credit facility is subject to the following financial covenants: fixed charge coverage ratio, total leverage ratio, minimum unrestricted cash balance, and maximum capital expenditures, all as defined in the agreement.

In May 2009, the Company amended its then existing revolving credit facility and entered into a warrant agreement with its lenders for 2.1 million shares of its common stock. Forty percent of the warrants were exercisable upon issuance while the remaining warrants were cancelled as a result of the Company's September 2009 early repayment of a portion of the outstanding balance under its June 6, 2007 credit agreement. As of May 2, 2010, approximately 0.4 million warrants have been exercised, including 0.1 million and 0.3 million of which were exercised during the three and six month periods ended May 2, 2010, respectively. The warrants, approximately 0.4 million of which remained outstanding at May 2, 2010, are exercisable for one share of the Company's common stock, at an exercise price of \$.01 per share. The warrant agreement also included a net cash settleable put provision exercisable starting in May 2012 and a call provision exercisable starting in May 2013, both of which were exercisable only if the Company's common stock was not traded on a national exchange or, in the case of the put provision, such repurchase does not create a default under the credit facility or any refinancing of it. As a result of the aforementioned net cash settleable put provisions, the warrants were initially recorded as a liability (included in other liabilities) and were subsequently reported at their fair value.



In addition to the former credit facility discussed above, the Company also entered into a term loan agreement with an aggregate commitment of \$27.2 million in the U.S. dated on June 8, 2009. This loan was repaid in February 2010 with funds from the credit facility.

On September 11, 2009, the Company sold, through a public offering, \$57.5 million aggregate principal amount of 5.5% convertible senior notes which mature on October 1, 2014. Note holders may convert each \$1,000 principal amount of notes to 196.7052 shares of stock (equivalent to an initial conversion price of approximately \$5.08 per share of common stock) on September 30, 2014. The conversion rate may be increased in the event of a make-whole fundamental change (as defined in the prospectus supplement filed by the Company on September 11, 2009) and the Company may not redeem the notes prior to their maturity date. The net proceeds of the convertible senior notes offering were approximately \$54.9 million.

In January 2010 the Company borrowed \$3.7 million from a customer to purchase manufacturing equipment. This loan bears interest at 4.75% and will be repaid with product supplied to the customer. Product valued at \$0.2 million was shipped to the customer and applied against the loan during the three month period ended May 2, 2010. The Company estimates that the loan will be fully repaid by December 2014.

In the first quarter of 2008 a capital lease agreement commenced for the U.S. nanoFab facility which bore interest at 8%. This lease was cancelled in the third fiscal quarter of 2009, at which time the Company and Micron (the lessor) entered into a new lease agreement for the facility. Under the provisions of the new lease agreement, quarterly lease payments were reduced from \$3.8 million to \$2.0 million, the term of the lease was extended from December 31, 2012 to December 31, 2014, and ownership of the property will not transfer to the Company at the end of the lease term. As a result of the new lease agreement, the Company reduced its lease obligation and the carrying value of its assets under capital leases by approximately \$28 million. The lease will continue to be accounted for as a capital lease until the end of its original lease term. For the additional two years of the new lease term, the lease will be accounted for as an operating lease. As of May 2, 2010, total capital lease amounts payable were \$21.8 million, of which \$19.5 million represented principal and \$2.3 million represented interest.

In October 2007, the Company entered into a capital lease agreement in the amount of \$19.9 million associated with certain equipment. Under the capital lease agreement, the Company is required to maintain the equipment in good working condition, and is required to comply with certain non-financial covenants. Payments under the lease are \$0.4 million per month over a 5-year term at a 5.6% interest rate.

#### **NOTE 10 - COMMON STOCK WARRANTS**

On September 10, 2009, the Company entered into two warrant agreements with Intel Capital Corporation to purchase a total of 750,000 shares of the Company's common stock. Under one warrant agreement 500,000 shares of the Company's common stock can be purchased at an exercise price of \$4.15 per share and under the second warrant agreement 250,000 shares of the Company's common stock can be purchased at an exercise price of \$5.08 per share. The warrant agreements expire on September 10, 2014. Also, on September 10, 2009, the Company and Intel Corporation entered into an agreement to share technical and operations information regarding the development of the Company's products, the capabilities of the Company's photomask manufacturing lines and the alignment of photomask toolsets. Intel Capital Corporation also invested in the Company's September 2009 convertible debt offering. The warrants were recorded at their fair value on their date of grant, which was determined using the Black-Scholes option pricing model. As of May 2, 2010, none of the warrants had been exercised.

In conjunction with an amendment to its credit facility on May 15, 2009, the Company also entered into a warrant agreement with its lenders. See Note 9 for further discussion of these warrants.

## NOTE 11 - FAIR VALUE MEASUREMENTS

Fair value, as defined in accounting guidance, is the price that would be received to sell an asset or transfer a liability in an orderly transaction between market participants at the measurement date. An "orderly transaction" is a transaction that assumes exposure to the market for a period prior to the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities (i.e. it is not a forced transaction). The transaction to sell an asset or transfer a liability is a hypothetical transaction at the measurement date, considered from the perspective of a market participant that holds the asset or owes the liability. Therefore, the objective of a fair value measurement is to determine the price that would be received to sell the asset or paid to transfer the liability (an exit price) at the measurement date.

A fair value measurement further assumes that the hypothetical transaction occurs in the principal (or if no principal market exists, the most advantageous) market for the asset or liability. Further, a fair value measurement assumes a transaction involving the highest and best use of an asset and the consideration of assumptions that would be made by market participants when pricing an asset or liability, such as transfer restrictions or non-performance risk.

The Company follows a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. This fair value hierarchy gives the highest priority to unadjusted, quoted market prices in active markets for identical assets or liabilities (including when the liabilities are traded as assets) while giving the lowest priority to unobservable inputs, which are inputs that reflect the Company's assumptions about the factors that market participants would use in valuing assets or liabilities, based upon the best information available under existing circumstances. In cases when the inputs used to measure fair value fall in different levels of the fair value hierarchy, the level within which the fair value measurement in its entirety falls is determined based on the lowest level input that is significant to the fair value measurement in its entirety. When, due to changes in the inputs to valuation techniques used to measure its fair value, an asset or liability is transferred between levels of the fair value hierarchy, the Company recognizes all transfer to or from any level to be as of the beginning of the reporting period. Assessing the significance of a particular input to the fair value measurement in its entirety requires judgment, including the consideration of factors specific to the asset or liability. The hierarchy consists of the following three levels:

Level 1 - Inputs are prices in active markets that are accessible at the measurement date.

Level 2 - Inputs other than quoted prices included within Level 1 are observable for the asset or liability, either directly or indirectly. At May 2, 2010, the Company's Level 2 asset is a foreign bond fund and its Level 2 liability consists of its common stock warrants which are reported in other liabilities.

Level 3 - Inputs are unobservable inputs for the asset or liability.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The tables below present assets and liabilities as of May 2, 2010 and November 1, 2009 that are measured at fair value on a recurring basis.

	May 2, 2010			Total
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
Foreign bond fund	\$ -	\$ 330	\$ -	\$ 330
Total assets	\$ -	\$ 330	\$ -	\$ 330
Common stock warrants	\$ -	\$ (2,272)	\$ -	\$ (2,272)
Total liabilities	\$ -	\$ (2,272)	\$ -	\$ (2,272)

	November 1, 2009			Total
	Quoted Prices in Active Markets for Identical Instruments (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
Foreign bond fund	\$ -	\$ -	\$ 148	\$ 148
Total assets	\$ -	\$ -	\$ 148	\$ 148
Common stock warrants	\$ -	\$ (3,205)	\$ -	\$ (3,205)
Total liabilities	\$ -	\$ (3,205)	\$ -	\$ (3,205)

The foreign bond fund above represents the Company's investment in a fund whose fair value was provided by the trustee. The fund was transferred from Level 3 to Level 2 during the three month period ended May 2, 2010 because its fair value had become determinable through the use of significant other observable inputs. An unrealized net of tax gain of \$0.1 million related to this fund is included in other comprehensive income at May 2, 2010.

The fair value of the common stock warrants liability was determined using the Black-Scholes option pricing model. Significant inputs to the model include the market price and expected volatility of the Company's common stock at the measurement date. Gains or losses related to fair value adjustments to the common stock warrants liability are included in other income (expense), net.

*Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis*

The Company, as permitted under accounting guidance issued in 2008, deferred the effective date for applying fair value guidance to nonfinancial assets and liabilities that are measured at fair value on a nonrecurring basis until November 2, 2009. As a result of this election, certain long-lived assets that, in fiscal year 2009 and in connection with the Company's restructuring initiatives, were measured at fair value on a nonrecurring basis did not have fair value disclosure provisions applied to them. The Company did not have any nonfinancial assets or liabilities measured at fair value on a nonrecurring basis during the three and six month periods ended May 2, 2010.

*Fair Value of Other Financial Instruments*

The fair values of the Company's cash and cash equivalents, accounts receivable, accounts payable, and certain other current assets and current liabilities approximate their carrying value due to their short-term maturities. The fair value of the Company's variable rate long-term debt approximates its carrying value due to the variable nature of the underlying interest rates. As of May 2, 2010, the estimated fair value of the Company's outstanding 5.5% convertible senior notes was approximately \$75.1 million.

**NOTE 12 - GEOGRAPHIC INFORMATION**

The Company operates as a single operating segment as a manufacturer of photomasks, which are high precision quartz plates containing microscopic images of electronic circuits for use in the fabrication of semiconductors. Geographic net sales are based primarily on where the Company's manufacturing facility is located. The Company's net sales for the three and six month periods ended May 2, 2010 and May 3, 2009, and its long-lived assets by geographic area as of May 2, 2010 and November 1, 2009, are presented below.

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>	<b>May 2, 2010</b>	<b>May 3, 2009</b>
<b>Net sales</b>				
Asia	\$ 61,821	\$ 50,942	\$ 122,628	\$ 107,183
Europe	10,665	9,336	20,182	18,085
North America	32,584	22,954	60,457	46,007
	<u>\$ 105,070</u>	<u>\$ 83,232</u>	<u>\$ 203,267</u>	<u>\$ 171,275</u>
			<b>As of</b>	
			<b>May 2, 2010</b>	<b>November 1, 2009</b>
<b>Long-lived assets</b>				
Asia			\$ 205,892	\$ 199,179
Europe			14,215	9,579
North America			140,001	139,131
			<u>\$ 360,108</u>	<u>\$ 347,889</u>

The Company is typically impacted during its first fiscal quarter by the North American and European holiday periods as some customers reduce their effective workdays and orders during this period.

## NOTE 13 - COMMITMENTS AND CONTINGENCIES

As of May 2, 2010, the Company had commitments outstanding for capital expenditures of approximately \$23 million.

The Company is subject to various claims that arise in the ordinary course of business. The Company believes such claims, individually or in the aggregate, will not have a material adverse effect on the business of the Company.

## NOTE 14 - RECENT ACCOUNTING PRONOUNCEMENTS

In January 2010, the Financial Accounting Standards Board ("FASB") issued updated guidance to improve disclosures related to fair value measurements. The amended guidance includes new requirements to separately disclose transfers in and out of Level 1 and Level 2, and to present separately information about purchases, sales, issuances, and settlements in the reconciliation of Level 3 fair value measurements. The guidance also clarifies existing disclosures by changing the level of disaggregation of fair value measurements to the class of asset or liability, which is often a subset of a line item within the statement of financial position. In addition, the guidance requires reporting entities to provide disclosures about inputs and valuation techniques for both recurring and nonrecurring fair value measurements. The guidance is effective for interim and annual periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the roll forward of activity in Level 3, which are effective for interim and annual periods beginning after December 15, 2010. The Company adopted the guidance related to the disclosure of transfers in and out of Level 1 and 2 during the three month period ended May 2, 2010.

In September 2009, the FASB issued revised guidance for multiple-deliverable revenue arrangements. This guidance changes the criteria for separating consideration in multiple-deliverable arrangements by establishing a selling price hierarchy for determining the selling price of a deliverable. Under the revised guidance, the selling price for each deliverable in a multiple-deliverable arrangement will, in order of preference and when available, be based on vendor specific objective evidence, third party evidence, or estimated selling price. The revised guidance prescribes that an estimated selling price be determined in a manner that is consistent with that used to determine the price to sell the deliverable on a stand alone basis, eliminates the residual method of allocation, and requires that arrangement consideration be allocated at the inception of the arrangement to all deliverables using the relative selling price method. The revised guidance also significantly expands the disclosures related to multiple-deliverable arrangements, and is effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010, with early adoption permitted. The Company does not expect that the adoption of the revised guidance will have a material impact on its consolidated financial statements.

In June 2009, the FASB issued amended standards for determining whether to consolidate a variable interest entity. The amended standards require an enterprise to perform an analysis to determine whether its variable interest or interests give it a controlling financial interest in a variable interest entity. This analysis is performed in order to identify the primary beneficiary of the variable interest entity as being the enterprise that has certain characteristics described in the amended standards. The amended standards, in addition to other requirements, require an enterprise to assess whether it has an implicit financial responsibility to ensure that a variable interest entity operates as designed when determining whether it has the power to direct the activities of the variable interest entity that most significantly impact the entity's financial performance and, mandates ongoing reassessments of whether an enterprise is the primary beneficiary of a variable interest entity. These amended standards are effective for financial statements issued for fiscal years beginning after November 15, 2009, and interim financial statements within those fiscal years. The Company is currently evaluating the impact, if any, this guidance will have on its consolidated financial statements.

## Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### Overview

Management's discussion and analysis ("MD&A") of the Company's financial conditions, results of operations, and outlook should be read in conjunction with its condensed consolidated financial statements and related notes. Various segments of this MD&A contain forward-looking statements, all of which are presented based on current expectations and may be adversely affected by uncertainties and risk factors (presented throughout this filing and in the Company's Annual Report on Form 10-K for the fiscal 2009 year), that may cause actual results to materially differ from these expectations.

The Company sells substantially all of its photomasks to semiconductor designers and manufacturers, and manufacturers of FPDs. Photomask technology is also being applied in the fabrication of other higher performance electronic products such as photonics, micro-electronic mechanical systems and certain nanotechnology applications. Thus, the Company's selling cycle is tightly interwoven with the development and release of new semiconductor designs and flat panel applications, particularly as it relates to the semiconductor industry's migration to more advanced design methodologies and fabrication processes. The Company believes that the demand for photomasks primarily depends on design activity rather than sales volumes from products produced using photomask technologies. Consequently, an increase in semiconductor or FPD sales does not necessarily result in a corresponding increase in photomask sales. In addition, the reduced use of customized ICs, reductions in design complexity, other changes in the technology or methods of manufacturing or designing semiconductors, or a slowdown in the introduction of new semiconductor or FPD designs could reduce demand for photomasks even if demand for semiconductors and FPDs increases. Advances in semiconductor and photomask design and semiconductor production methods could also reduce the demand for photomasks. Historically, the semiconductor industry has been volatile, with sharp periodic downturns and slowdowns. These downturns have been characterized by, among other things, diminished product demand, excess production capacity, and accelerated erosion of selling prices. The semiconductor industry experienced a downturn in 2008 that continued into 2009, which had a negative impact on the Company's 2009 operating results. The Company's 2009 operating results were also negatively impacted by the global recession, which could also impact the Company's 2010 operating results.

The global semiconductor industry is driven by end markets which have been closely tied to consumer driven applications of high performance semiconductor devices including, but not limited to, communications and mobile computing solutions. The Company is typically required to fulfill its customer orders within a short period of time, sometimes within 24 hours. This results in the Company having a minimal level of backlog orders, typically one to two weeks. The Company cannot predict the timing of the industry's transition to volume production of next generation technology nodes or the timing of up and down cycles with precise accuracy, but believes that such transitions and cycles will continue into the future, beneficially and adversely affecting its business, financial condition and operating results in the near term. The Company's ability to remain successful in these environments is based upon achieving its goals of being a service and technology leader, an efficient solutions supplier, and a company able to continually reinvest in its global infrastructure.

The effects of the weakened global economy and the tightened credit market require the Company to continue to make significant improvements in its competitiveness. In connection therewith, the Company continues to delay capital expenditures and evaluate further cost reduction initiatives.

The Company's ability to comply with the financial and other covenants in its debt agreements may be affected by worsening economic or business conditions, or other events. Existing covenant restrictions limit the Company's ability to obtain additional debt financing and, should the Company be unable to meet one or more of these covenants, the Company's lenders may require the Company to repay its outstanding balances prior to the expiration date of the agreements. The Company cannot assure that additional sources of financing would be available to the Company to pay off its long-term borrowings to avoid default. Should the Company default on any of its long-term borrowings, a cross default would occur on certain other of its other long-term borrowings, unless amended or waived. As of May 2, 2010, the Company was in compliance with its debt covenants.

**Material Changes in Results of Operations**  
**Three and Six Months ended May 2, 2010 and May 3, 2009**

The following table represents selected operating information expressed as a percentage of net sales.

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>May 2, 2010</b>	<b>May 3, 2009</b>	<b>May 2, 2010</b>	<b>May 3, 2009</b>
Net sales	100.0%	100.0%	100.0%	100.0%
Cost of sales	(79.0)	(86.3)	(80.2)	(87.2)
Gross margin	21.0	13.7	19.8	12.8
Selling, general and administrative expenses	(10.3)	(12.8)	(10.3)	(12.3)
Research and development expenses	(3.4)	(5.0)	(3.7)	(4.6)
Consolidation, restructuring and related (charges) credits	4.7	(0.5)	2.3	(1.2)
Impairment of long-lived assets	-	(1.7)	-	(0.8)
Operating income (loss)	12.0	(6.3)	8.1	(6.1)
Other expense, net	(2.0)	(6.0)	(2.3)	(5.0)
Net income (loss) before income taxes	10.0	(12.3)	5.8	(11.1)
Income tax benefit (provision)	(1.8)	0.1	(1.4)	(0.7)
Net income (loss)	8.2	(12.2)	4.4	(11.8)
Net (income) loss attributable to noncontrolling interests	(0.7)	0.1	(0.4)	(0.1)
Net income (loss) attributable to Photronics, Inc.	7.5%	(12.1)%	4.0%	(11.9)%

All of the following tabular comparisons, unless otherwise indicated, are for the three months ended May 2, 2010 (Q2-10) and May 3, 2009 (Q2-09) and for the six months ended May 2, 2010 (YTD-10) and May 3, 2009 (YTD-09) in millions of dollars.

**Net Sales**

	<b>Three Months Ended</b>			<b>Six Months Ended</b>		
	<b>Q2-10</b>	<b>Q2-09</b>	<b>Percent Change</b>	<b>YTD-10</b>	<b>YTD-09</b>	<b>Percent Change</b>
IC	\$ 84.0	\$ 63.8	31.7%	\$ 158.5	\$ 127.4	24.5%
FPD	21.1	19.4	8.4%	44.8	43.9	1.9%
Total net sales	\$ 105.1	\$ 83.2	26.2%	\$ 203.3	\$ 171.3	18.7%

Net sales for Q2-10 increased 26.2% to \$105.1 million as compared to \$83.2 million for Q2-09. The increase is primarily related to increased IC sales, as a result of increased high-end and mainstream unit demand, and higher average selling prices (ASPs), primarily for high-end products. FPD sales increased as a result of increased unit demand and ASPs. Revenues attributable to high-end products were \$26.1 million in Q2-10 and \$15.9 million in Q2-09. High-end photomask applications, which typically have higher ASPs, include mask sets for 65 nanometer and below for IC products, and G7 and above technologies for FPD products. By geographic area, net sales in Q2-10 as compared to Q2-09 increased by \$10.9 million or 21.4% in Asia, increased by \$9.6 million or 42.0% in North America, and increased by \$1.3 million or 14.2% in Europe. As a percent of total sales in Q2-10, net sales were 59% in Asia, 31% in North America, and 10% in Europe; and net sales in Q2-09 in Asia were 61%, North America 28%, and Europe 11%.

Net sales for YTD-10 increased 18.7% to \$203.3 million as compared to \$171.3 million for YTD-09. The increase was caused by higher sales of both IC and FPD photomasks, due in part to improved overall business conditions. IC photomask sales increased \$31.1 million as a result of increased units for high-end and mainstream products, and higher ASPs for high-end products. FPD photomask sales increased \$0.9 million, primarily as a result of increased unit demand. The Company's quarterly revenues can be affected by the seasonal purchasing of its customers. The Company is typically impacted during the first six months of its fiscal year by the North American, European and Asian holiday periods as some customers reduce their effective workdays and orders during this period. This seasonality was experienced to a greater than normal extent during YTD-09 as many of the Company's customers placed their fabs on extended shutdowns.

### Gross Margin

	Three Months Ended			Six Months Ended		
	Q2-10	Q2-09	Percent Change	YTD-10	YTD-09	Percent Change
Gross margin	\$ 22.1	\$ 11.4	93.1%	\$ 40.3	\$ 22.0	83.0%
Percentage of net sales	21.0%	13.7%		19.8%	12.8%	

Gross margin percentage increased to 21.0% in Q2-10 from 13.7% in Q2-09 and increased to 19.8% in YTD-10 from 12.8% in YTD-09. These increases were a result of increased sales in all geographic regions, including increased high-end sales, and, as a result of reduced costs associated with the 2009 closures of the Company's manufacturing facilities in Manchester, U.K., and Shanghai, China. The Company operates in a high fixed cost environment and, to the extent that the Company's revenues and utilization increase or decrease, gross margin will generally be positively or negatively impacted.

### Selling, General and Administrative Expenses

	Three Months Ended			Six Months Ended		
	Q2-10	Q2-09	Percent Change	YTD-10	YTD-09	Percent Change
Selling, general and administrative expenses	\$ 10.9	\$ 10.6	2.3%	\$ 21.0	\$ 21.0	0.0%
Percentage of net sales	10.3%	12.8%		10.3%	12.3%	

Selling, general and administrative expenses increased slightly to \$10.9 million in Q2-10, compared with \$10.6 million in Q2-09. Selling, general and administrative expenses were \$21.0 million in YTD-10 and YTD-09.

### Research and Development

	Three Months Ended			Six Months Ended		
	Q2-10	Q2-09	Percent Change	YTD-10	YTD-09	Percent Change
Research and development	\$ 3.6	\$ 4.2	(13.8)%	\$ 7.6	\$ 7.8	(3.1)%
Percentage of net sales	3.4%	5.0%		3.7%	4.6%	

Research and development expenses consist primarily of global development efforts relating to high-end process technologies for advanced sub-wavelength reticle solutions for IC and FPD technologies. Research and development expenses decreased by \$0.6 million to \$3.6 million in Q2-10, as compared to \$4.2 million in Q2-09. On a YTD basis, research and development expenses decreased \$0.2 million to \$7.6 million in YTD-10, as compared to \$7.8 million in YTD-09. The reduction in research and development expenses in Q2-10 and YTD-10 as compared to the same periods in the prior year were primarily due to reduced expenditures in the U.S.



**Consolidation, Restructuring and Related Charges (Credit)**

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>Q2-10</b>	<b>Q2-09</b>	<b>YTD-10</b>	<b>YTD-09</b>
Net gain on sales of assets	\$ (5.0)	-	\$ (5.0)	-
Employee terminations	-	\$ 0.3	0.2	\$ 1.4
Asset write-downs and other	-	0.1	-	0.7
Total consolidation, restructuring and related charges	\$ (5.0)	\$ 0.4	\$ (4.8)	\$ 2.1

**Shanghai, China, Facility**

During the three months ended August 2, 2009, the Company ceased the manufacture of photomasks at its Shanghai, China, facility. In connection with this restructuring, the Company has recorded total net restructure charges of \$5.4 million through May 2, 2010, including \$4.2 million of net asset write-downs. The fair value of the assets written down was determined by management using a market approach. Approximately 75 employees were affected by this restructuring.

The Company recorded an initial restructuring charge of \$10.1 million during the three month period ended August 2, 2009, which included \$7.7 million to write down the carrying value of the Company's Shanghai manufacturing facility to its estimated fair value at that time. During the three months ended May 2, 2010, the Company sold its facility in Shanghai, China, for net proceeds of \$12.9 million which resulted in a gain of \$5.2 million. This gain was recorded as a credit to the restructure reserve during the three months ended May 2, 2010.

The Company expects this restructuring to be completed during the third quarter of fiscal 2010, and does not expect the remaining restructuring costs to be significant.

**Manchester, U.K., Facility**

During the three months ended February 1, 2009, the Company ceased the manufacture of photomasks at its Manchester, U.K., facility, and in connection therewith incurred total restructuring charges of \$3.3 million through its completion in the fourth quarter of fiscal 2009, primarily for employee termination costs and asset write-downs. Approximately 85 employees were affected by this restructuring.

***Other Income (Expense), net***

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>Q2-10</b>	<b>Q2-09</b>	<b>YTD-10</b>	<b>YTD-09</b>
Interest expense	\$ (3.1)	\$ (4.4)	\$ (6.0)	\$ (9.1)
Investment and other income (expense), net	0.9	(0.6)	1.4	0.5
Other income (expense), net	\$ (2.2)	\$ (5.0)	\$ (4.6)	\$ (8.6)

Interest expense decreased in Q2-10 as compared to Q2-09 and in YTD-10 as compared to YTD-09, primarily as a result of lower debt levels and lower average interest rates on the Company's long-term borrowings. Interest expense in Q2-10 and YTD-10 includes \$1.0 million relating to the write-off of deferred financing fees in connection with an amendment to the Company's credit facility. The outstanding balance of the Company's variable rate debt and related higher interest costs were reduced substantially during the three month period ended November 1, 2009, with net proceeds from its common stock and convertible debt offerings.

Investment and other income (expense), net, increased in Q2-10 and in YTD-10 as compared to the same periods in the prior year. These increases were primarily due to improved foreign currency transaction results, which were offset in part by losses related to the Company's common stock warrants.

### ***Income Tax Benefit (Provision)***

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>Q2-10</b>	<b>Q2-09</b>	<b>YTD-10</b>	<b>YTD-09</b>
Income tax benefit (provision)	\$ (1.9)	\$ 0.1	\$ (2.9)	\$ (1.1)

The effective income tax rates differ from the amount computed by applying the U.S. statutory rate of 35% to the income (loss) before income taxes primarily because income tax provisions in jurisdictions where the Company generated income before income taxes were, due to valuation allowances, not significantly offset by income tax benefits in jurisdictions where the Company incurred losses before income taxes. Further, various investment tax credits have been utilized in Korea and Taiwan which reduced the Company's effective income tax rate.

PKLT, the Company's FPD manufacturing facility in Taiwan, is accorded a tax holiday, which expires in 2012. In addition, the Company has been accorded a tax holiday in China which is expected to expire in 2011. The availability of these tax holidays did not have a significant impact on the Company's decisions to increase or decrease its Asian presence, as the Company's decisions were in response to fundamental changes that took place in the semiconductor industry. These tax holidays had no dollar or per share effect in the three and six month periods ended May 2, 2010 and May 3, 2009.

### ***Net Income Attributable to Noncontrolling Interests***

Net income attributable to noncontrolling interests (formerly referred to as "minority interests") increased \$0.8 million to \$0.7 million in Q2-10 as compared to Q2-09, primarily due to increased net income at the Company's non-wholly owned subsidiary in Taiwan. Year to date, net income attributable to noncontrolling interests increased to \$0.9 million in YTD-10 as compared to \$0.2 million in YTD-09, primarily as a result of increased net income at the Company's non-wholly owned subsidiary in Taiwan. The Company's ownership in its subsidiary in Taiwan was approximately 58% at May 2, 2010 and November 1, 2009, and its ownership in its subsidiary in Korea was approximately 99.7% at May 2, 2010 and November 1, 2009.

### ***Liquidity and Capital Resources***

The Company's working capital was \$93.0 million at May 2, 2010 and \$89.5 million at November 1, 2009. Cash and cash equivalents increased to \$91.4 million at May 2, 2010, as compared to \$88.5 million at November 1, 2009. Cash provided by operating activities was \$33.8 million for the six months ended May 2, 2010, as compared to \$26.3 million for the same period last year. The increase was primarily due to the Company's increased net income as compared to the same prior year period, partially offset by changes in operating assets and liabilities (primarily accounts receivable). Cash used in investing activities for the six months ended May 2, 2010 was \$19.1 million, which was comprised primarily of capital expenditure payments of \$31.0 million, offset by net proceeds of \$12.9 million from the sale of the Company's Shanghai, China, facility. Cash used in financing activities of \$14.7 million for the six months ended May 2, 2010 was primarily comprised of net repayments of long-term borrowings.

On February 12, 2010, the Company amended its revolving credit facility to a three-year \$50 million revolving credit facility ("the credit facility") with an expansion option up to \$65 million. The credit facility, which matures on February 12, 2013, bears interest at LIBOR plus a spread, as defined in the agreement (4.31% at May 2, 2010), is secured by substantially all of the Company's assets in the United States as well as stock the Company owns in certain of its foreign subsidiaries and, includes the following financial covenants: fixed charge coverage ratio, total leverage ratio, minimum unrestricted cash balance, and maximum capital expenditures, all as defined in the agreement. On May 7, 2010, the revolving credit facility was amended to expand its capacity from \$50 million to \$65 million. On May 18, 2010, the Company repaid \$12 million of the outstanding balance of its credit facility, which resulted in an outstanding balance of \$5 million and an unused available balance of \$60 million.

At May 2, 2010, the Company had capital commitments outstanding of approximately \$23 million. Photronics believes that its currently available resources, together with its capacity for growth, and its access to equity and other financing sources, will be sufficient to satisfy its currently planned capital expenditures, as well as its anticipated working capital requirements for the next twelve months. However, the Company cannot assure that additional sources of financing would be available to the Company on commercially favorable terms should the Company's capital requirements exceed cash available from operations, existing cash, and cash available under its credit facility.

The Company's liquidity is highly dependent on its sales volume, cash conversion cycle, and the timing of its capital expenditures, as it operates in a high fixed cost environment. Depending on conditions in the IC semiconductor and FPD market, the Company's cash flows from operations and current holdings of cash may not be adequate to meet its current and long-term needs for capital expenditures, operations and debt repayments. Historically, in certain years the Company has used external financing to fund these needs. Due to conditions in the credit markets, some financing instruments used by the Company in the past may not be currently available to it. The Company continues to evaluate alternatives to delay capital expenditures and evaluate further cost reduction initiatives. However, the Company cannot assure that additional sources of financing would be available to it on commercially favorable terms should its capital requirements exceed cash available from operations and existing cash, and cash available under its credit facility.

### **Share-Based Compensation**

Total share-based compensation expense for the three and six months ended May 2, 2010 was \$0.5 million and \$1.0 million, respectively, as compared to \$0.6 million and \$1.3 million, respectively, for the comparable prior year periods, substantially all of which is in selling, general and administrative expenses. No compensation cost was capitalized as part of inventory, and no income tax benefit has been recorded. As of May 2, 2010, total unrecognized compensation cost of \$3.9 million is expected to be recognized over a weighted-average amortization period of 3.3 years.

### **Off-Balance Sheet Arrangements**

Under the operating agreement relating to the MP Mask joint venture, in order to maintain its 49.99% interest, the Company may be required to make additional capital contributions to the joint venture up to the maximum amount defined in the operating agreement. However, should the Board of Managers determine that further additional funding is required, the joint venture shall pursue its own financing. If the joint venture is unable to obtain its own financing, it may request additional capital contributions from the Company. Should the Company choose not to make a requested contribution to the joint venture, its ownership interest may be reduced. Cumulatively, through May 2, 2010, the Company has contributed \$6.1 million to the joint venture, and has received distributions from the joint venture totaling \$10.0 million. During the six months ended May 2, 2010, there were no contributions made to the joint venture by the Company, and no distributions were received by the Company from the joint venture.

The Company leases certain office facilities and equipment under operating leases that may require it to pay taxes, insurance and maintenance expenses related to the properties. Certain of these leases contain renewal or purchase options exercisable at the end of the lease terms. On May 19, 2009, the Company and Micron Technologies, Inc. entered into a new lease agreement for the U.S. nanoFab building and cancelled its prior lease agreement. The new lease, among other changes discussed in Note 9 to the condensed consolidated financial statements, extends the lease term from December 31, 2012 to December 31, 2014. The Company will continue to account for the lease as a capital lease for the remainder of its original term and account for it as an operating lease for the period of the lease extension. Rental payments due during the lease extension period total \$13.9 million.

### **Business Outlook**

A majority of the Company's revenue growth is expected to come from the Asian region, as customers increase their use of manufacturing foundries located outside of North America and Europe. Additional revenue growth is also anticipated in North America as the Company benefits from advanced technology it may utilize under its technology license with Micron. The Company's Korean and Taiwanese operations are non-wholly owned subsidiaries, therefore, a portion of earnings generated at each of these locations is allocated to noncontrolling interests.

The Company continues to assess its global manufacturing strategy and monitor its market capitalization, sales volume and related cash flows from operations. This ongoing assessment could result in future facility closures, asset redeployments, additional impairments of intangible or long-lived assets, workforce reductions, or the addition of increased manufacturing facilities, all of which would be based on market conditions and customer requirements.

### **Effect of Recent Accounting Pronouncements**

See Note 14 of the condensed consolidated financial statements for a summary of recent accounting pronouncements that may affect the Company's financial reporting.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The Company records derivatives on the balance sheet as assets or liabilities, measured at fair value. The Company does not engage in derivative instruments for speculative purposes. Gains or losses resulting from changes in the values of those derivatives are reported in the condensed consolidated statement of operations, or as accumulated other comprehensive income, a separate component of shareholders' equity, depending on the use of the derivatives and whether they qualify for hedge accounting. In order to qualify for hedge accounting, among other criteria, the derivative must be a hedge for an interest rate, price, foreign currency exchange rate, or credit risk, that is expected to be highly effective at the inception of the hedge and be highly effective in achieving offsetting changes in the fair value or cash flows of the hedged item during the term of the hedge, and formally documented at the inception of the hedge. In general, the types of risks hedged are those relating to the variability of future cash flows caused by movements in foreign currency exchange and interest rates. The Company documents its risk management strategy and hedge effectiveness at the inception of, and during the term of each hedge.

#### **Foreign Currency Exchange Rate Risk**

The Company conducts business in several major international currencies through its worldwide operations and is subject to changes in foreign exchange rates of such currencies. Changes in exchange rates can positively or negatively affect the Company's reported sales, operating margins, assets, liabilities, and retained earnings. The functional currencies of the Company's Asian subsidiaries are the Korean won, New Taiwan dollar, Chinese renminbi, and Singapore dollar. The functional currencies of the Company's European subsidiaries are the British pound and the euro.

The Company attempts to minimize its risk of foreign currency transaction losses by producing its products in the same country in which the products are sold (thereby generating revenues and incurring expenses in the same currency), and by managing its working capital. In some instances, the Company may sell or purchase products in a currency other than the functional currency of the country where it was produced. There can be no assurance that this approach will continue to be successful, especially in the event of a significant adverse movement in the value of any foreign currencies against the U.S. dollar. In certain recent years the Company experienced significant foreign exchange losses on these transactions.

The Company's primary net foreign currency exposures as of May 2, 2010 included the Korean won, the Japanese yen, the Singapore dollar, the New Taiwan dollar, the British pound, the euro, and the Chinese renminbi. As of May 2, 2010, a 10% adverse movement in the value of these currencies against the U.S. dollar would have resulted in a net unrealized pre-tax loss of \$3.9 million. The Company does not believe that a 10% change in the exchange rates of other non-U.S. dollar currencies would have a material effect on its consolidated financial position, results of operations, or cash flows.

In April 2008, the Company's Korean and Taiwanese subsidiaries each entered into separate foreign currency exchange rate swap contracts that effectively converted a \$12 million interest bearing intercompany loan denominated in U.S. dollars into their respective local currencies. Both contracts expired in conjunction with the April 2009 maturity date of the intercompany loan. The Company did not elect to designate either contract as a fair value hedge.

#### **Interest Rate Risk**

At May 2, 2010, the Company had \$17.0 million in variable rate borrowings. A 10% change in interest rates would not have had a material effect on the Company's consolidated financial position, results of operations, or cash flows in the three and six month periods ended May 2, 2010.

## **Common Stock Market Price Risk**

In May 2009, the Company amended its then existing revolving credit facility and entered into a warrant agreement with its lenders for 2.1 million shares of its common stock. The warrants, approximately 0.4 million of which remained outstanding at May 2, 2010, are exercisable for one share of the Company's common stock, at an exercise price of \$0.1 per share. Due to the warrants' exercise price of \$0.01 per share, their fair value will approximate the market price of the Company's common stock. A ten percent change in the May 2, 2010 market price of the Company's common stock would increase or decrease the Company's net income by approximately \$0.2 million and, increase or decrease its other liabilities by the same amount. The Company's cash flows would not be affected by such a change in the market price of its common stock. However, the Company's stock may fluctuate more than ten percent. Any change in the fair value of the warrants resulting from changes in the market price of the Company's common stock would result in a non-cash charge or credit to the Company's operating results. Approximately 0.1 million and 0.3 million warrants were exercised during the three and six month periods ended May 2, 2010. Changes in the fair value of the warrants during the three and six month periods ended May 2, 2010 resulted in non-cash charges of \$0.9 million and \$0.8 million, respectively, which are included in other income (expense) net.

## **Item 4. CONTROLS AND PROCEDURES**

### **Evaluation of Disclosure Controls and Procedures**

The Company has established and currently maintains disclosure controls and procedures designed to ensure that information required to be disclosed in its reports filed under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to management, including the Company's chief executive officer and chief financial officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

The Company's management, with the participation of the Company's chief executive officer and chief financial officer, evaluated the effectiveness of the Company's disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, the chief executive officer and chief financial officer concluded that the Company's disclosure controls and procedures, as of the end of the period covered by this report, were designed and are functioning effectively to provide reasonable assurance that the information required to be disclosed by the Company in reports filed under the Securities Exchange Act of 1934 is (i) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and (ii) accumulated and communicated to management, including the chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding disclosure.

### **Changes in Internal Control over Financial Reporting**

There was no change in the Company's internal control over financial reporting during the Company's second quarter of fiscal 2010 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

**PART II. OTHER INFORMATION**

**Item 1A. RISK FACTORS**

There have been no material changes to risks relating to the Company's business as disclosed in Part 1, Item 1A of the Company's Form 10-K for the year ended November 1, 2009.

**Item 6. EXHIBITS**

(a) Exhibits

<b>Exhibit Number</b>	<b>Description</b>
10.40	Executive Employment Agreement between the Company and Peter Kirlin, Senior Vice President, U.S. and Europe, dated May 21, 2010.
10.41	Executive Employment Agreement between the Company and Richelle Burr, Vice President, General Counsel and Secretary, dated May 21, 2010.
10.42	Amendment to the Employee Stock Purchase Plan as of April 8, 2010.
10.43	Amendment No. 1 to the 2007 Long-Term Equity Incentive Plan as of April 8, 2010.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

**SIGNATURES**

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 thereunto duly authorized.

Photronics, Inc.  
(Registrant)

By:                   /s/ SEAN T. SMITH                    
Sean T. Smith  
Senior Vice President  
Chief Financial Officer  
(Duly Authorized Officer and  
Principal Financial Officer)

Date: June 10, 2010

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of May 21, 2010 by and between Photronics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 15 Secor Road, Brookfield, CT 06804 and Peter S. Kirlin ("Executive") residing at 18 Butternut Ridge, Newtown, CT 06470.

WITNESSETH:

WHEREAS, the Company and Executive desire to enter into this Agreement to assure the Company of the continuing service of Executive and to set forth the terms and conditions of Executive's employment with the Company.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

**1. Term.** The Company agrees to employ Executive and Executive hereby accepts such employment, in accordance with the terms of this Agreement. Subject to Section 5, the term of Executive's employment shall commence on the date hereof and continue for three (3) years thereafter unless this Agreement is earlier terminated as provided herein (the "Term"); provided, however, that unless the Company gives written notice to Executive at least thirty (30) days prior to the end of the Term of this Agreement (as the Term may be extended pursuant to this Section 1), on each anniversary of the date hereof, the Term of this Agreement shall automatically be extended for an additional one (1) year period.

**2. Services.** So long as this Agreement shall continue in effect, Executive shall devote Executive's full business time, energy and ability to the business, affairs and interests of the Company and its subsidiaries and matters related thereto. Executive shall use his best efforts and abilities to promote the Company's interests and shall perform faithfully the services contemplated by this Agreement in accordance with the Company's policies as established by the Board of Directors of the Company.

**3. Duties and Responsibilities.**

(a) Executive shall serve as the Senior Vice President, U.S and Europe of the Company. In the performance of Executive's duties, Executive shall report directly to the CEO or as otherwise directed by the CEO or the Company's Board of Directors, and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the CEO or the Company's Board of Directors.

(b) In addition, Executive agrees to observe and comply with the policies, rules and regulations of the Company. The Company agrees that the duties which may be assigned to Executive shall be the customary duties of the office of Senior Vice President, U.S. and Europe and shall not be inconsistent with the provisions of the charter documents of the Company or applicable law.

#### **4. Compensation.**

(a) **Base Compensation.** During the Term, the Company agrees to pay Executive a base salary at the rate of \$280,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "**Base Salary**"). All payments required hereunder, including the payments required by this **Section 4(a)**, may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

(b) **Periodic Review.** The Compensation Committee or the Board of Directors of the Company shall review Executive's Base Salary and Benefits (as defined below) from time to time in accordance with the normal business practices of the Company. The Company may in its sole discretion increase the Base Salary during the Term. The amount of any increase combined with the previous year's Base Salary shall then constitute Executive's Base Salary for purposes of this Agreement.

(c) **Additional Benefits.** During the Term, the Executive shall be entitled to participate in the employee benefit plans and arrangements as the Company may establish from time to time in which other employees similarly situated are entitled to participate (which may include, without limitation, bonus plan(s), medical plan, dental plan, disability plan, basic life insurance and business travel accident insurance plan, 401(k) plan, stock option or stock purchase plans or any successor plans thereto (the "**Benefits**")). The Company shall have the right to terminate or change any such plans or programs at any time.

(d) **Automobile Allowance.** During the Term of this Agreement, the Company shall provide the Executive with an automobile allowance or company car consistent with the Company's policies and provisions applicable to other similarly situated executives of the Company.

(e) **Vacation.** During the Term of this Agreement, Executive shall be entitled to four (4) weeks' paid vacation per calendar year, which shall not be transferable to any subsequent year.

**5. Termination.** This Agreement and all rights and obligations hereunder, except the rights and obligations contained in this **Section 5**, **Section 7** (Confidential Information), **Section 8** (Non-Competition), **Section 9** (Intellectual Property) and **Section 10** (Remedies), which shall survive any termination hereunder, shall terminate upon the earliest to occur of any of the following:

(a) **Resignation without Good Reason; Retirement.** Upon the resignation by Executive without Good Reason (as defined below) following at least thirty (30) days written notice to the Company or retirement from the Company in accordance with the normal retirement policies of the Company, Executive shall be entitled to receive a payment in the amount of the sum of (A) Executive's Base Salary through the last day of employment to the extent not theretofore paid, (B) any compensation previously deferred by Executive (together with any accrued interest or earnings thereon), and (C) any accrued vacation pay according to Company U.S. Vacation Policy, in each case to the extent not theretofore paid (the sum of the amounts described in clauses (A), (B) and (C) shall be hereinafter referred to as the "**Accrued Obligations**"), in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the last day of employment or any earlier time required by applicable law.



(b) Death or Disability of Executive.

(i) If Executive's employment is terminated by reason of Executive's death or disability, this Agreement shall terminate without further obligations to Executive (or Executive's heirs or legal representatives) under this Agreement, other than for:

(1) Payment of any Accrued Obligations, which shall be paid to Executive or Executive's estate or beneficiary, as applicable, in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.

(2) Payment to Executive or Executive's estate or beneficiary, as applicable, of any amount accrued pursuant to the terms of any other applicable benefit plan.

(ii) If Executive shall become disabled, Executive's employment may be terminated only by written notice from the Company to Executive.

(iii) For the purposes of this Agreement, "disability" or "disabled" shall mean a mental or physical incapacity which prevents Executive from performing Executive's duties with the Company for a period of three hundred sixty (360) consecutive calendar days, as certified by a physician selected by the Company or its insurers.

(c) Termination for Cause.

(i) The Company may terminate Executive's employment and all of Executive's rights to receive Base Salary, and any Benefits hereunder for Cause.

(ii) Upon such termination for Cause, Executive shall be entitled to receive any Accrued Obligations, which shall be paid to Executive in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.

(iii) For purposes of this Agreement, the term "Cause" shall be defined as any of the following:

(1) Executive's material breach of any of any obligations under this Agreement (other than by reason of physical or mental illness, injury, or condition);

(2) Executive's conviction by, or entry of a plea of "guilty" or "nolo contendere" in a court of competent and final jurisdiction for any felony that impairs his ability to perform his duties to the Company or any crime of moral turpitude;

(3) Executive's commission of an act of fraud upon the Company;

(4) Executive's engaging in willful or reckless misconduct or gross negligence in connection with any property or activity of the Company or its Affiliates;

(5) Executive's repeated and intemperate use of alcohol or illegal drugs after written notice from the Board or Directors;

(6) Executive's material breach of any other material obligation to the Company (other than by reason of physical or mental illness, injury, or condition) that is or could reasonably be expected to result in material harm to the Company;

(7) Executive's becoming insolvent or filing for bankruptcy;

(8) Executive's becoming barred or prohibited by the SEC from holding my position with the Company; or

(9) Executive's violation of any duty of loyalty (i.e., engaging in self-interested transactions, misappropriation of business opportunities that belong to the Company, or a breach of Executive's fiduciary duties to the Company).

(d) Termination Without Cause; Resignation For Good Reason.

(i) Notwithstanding any other provision of this Section 5, (i) the Company may, at its option and at any time, provide to Executive: (A) up to twelve (12) months' advance written notice of termination of employment without Cause, or (B) written notice of a current material adverse change in the Executive's position (such notice in (A) or (B) being referred to herein as a "Working Notice"). If the Company issues a Working Notice to the Executive, any entitlement to a Severance Payment and Benefit Period (as defined below) shall be reduced in proportion to the period covered by the Working Notice. During the period covered by the Working Notice, the Executive shall continue to provide the services according to Section 2, hereof as an employee of the Company. If the Executive resigns during the period covered by the Working Notice, then Executive shall receive only the Accrued Obligations through the date of termination. Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

(ii) If Executive is so terminated without Cause or resigns for Good Reason, Executive shall receive from the Company:

(1) Any Accrued Obligations through the date of termination, which shall be paid to Executive in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.

(2) A payment (“Severance Payment”) equal to twelve (12) months of Executive’s current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments, following the expiration of the Revocation Period defined in the Release referred to in Section 5(d)(iv), in accordance with the Company’s customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) Payment of Executive’s COBRA premiums for the 360-day period following termination of employment (“Benefit Period”), provided Executive elects to receive COBRA continuation coverage and is eligible for COBRA continuation coverage.

(iii) As used in this Agreement, the term “Good Reason” shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company’s principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) a material diminution in Executive’s overall employee benefits not the result of changes in benefit plans affecting other employees, without the consent of Executive.

(iv) As a condition to receiving the payment and benefits extension contemplated by Section 5(d) or 5(e), Executive agrees to execute and deliver to the Company the Release substantially in the form attached to this Agreement as Exhibit A.

(e) Change of Control.

(i) For purposes of the Agreement, a “change of control” means, and shall be deemed to have taken place, if;

(1) any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity or person, or any syndicate or group deemed to be a person under Section 14 (d) (2) of the Exchange Act, is or becomes the “beneficial owner” (as defined in Rule 13d-3 of the General Rules and Regulations under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the combined voting power of the Company’s then outstanding securities entitled to vote in the election of directors of the Company;

(2) during any period of two (2) consecutive years (not including any period prior to the execution of this Agreement) individuals who at the beginning of such period constituted the Board and any new directors, whose election by the Board or nomination for election by the Company’s shareholders was approved by a vote of at least three-fourths (3/4ths) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Board;

(3) there occurs a reorganization, merger, consolidation or other corporate transaction involving the Company (a "Transaction"), and shareholders of the Company immediately prior to such Transaction do not, immediately after the Transaction, own more than 50% of the combined voting power of the Company or other corporation resulting from such Transaction; or

(4) there is a "change in control" of the Company within the meaning of Section 280G of the U.S. Federal internal revenue code of 1986.

(iii) If during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), the Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof), including an election by the Company or its successor not to extend this Agreement pursuant to Section 1, or the Executive resigns for Good Reason as defined in Section 5(e)(ii), "Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(ii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

(iv) Any payments to be made to Executive in connection with this Section 5(e) shall be made in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law, following the expiration of the Revocation Period defined in the Release referred to in Section 5(d)(iv).

(f) Tax Consideration.

(i) In the event that the aggregate of all payments or benefits made or provided to the Executive under this Agreement and under all other plans and programs of the Company (the "Aggregate Payment") is determined to constitute a Parachute Payment, as such term is defined in Section 280G(b)(2) of the Internal Revenue Code of 1986, as amended (the "Code"), the Company shall pay to the Executive an additional amount (the "Gross-Up Amount"), prior to the time any excise tax ("Excise Tax") is imposed by Section 4999 of the Code is payable with respect to such Aggregate Payment, which, after the imposition of all excise, federal, state and local income taxes, enables the Executive to retain a total amount equal to the Aggregate Payment prior to the payment of the Gross-Up Amount. Notwithstanding the foregoing, if it shall be determined that the Executive is entitled to receive the Gross-Up Amount, but the portion of the Aggregate Payment that would be treated as a Parachute Payment does not exceed 125% of the greatest amount that could be paid to the Executive such that the receipt of the Aggregate Payment would not give rise to any Excise Tax (the "Safe Harbor Amount"), then no Gross-Up Amount shall be paid to the Executive and the Aggregate Payment shall be reduced to the Safe Harbor Amount.

(ii) All determinations required to be made under this Section 5(f), including whether the Aggregate Payment constitutes a Parachute Payment, the amount of the Gross-Up Amount to be paid to the Executive, if any, and the determination of the Safe Harbor Amount, if applicable, shall be made in good faith by the by the Company's regular outside auditors (the "Accounting Firm"); provided, however, that such Accounting Firm presents its rationale and supporting calculations to the Executive upon his request and shall in good faith work to resolve any discrepancies raised by accountants or lawyers chosen by the Executive who present reasonable critiques of the determination. If a dispute over the methodology or conclusions of the Accounting Firm cannot be resolved between the parties, an impartial accounting firm shall be consulted to resolve the dispute. All fees and expenses of the Accounting Firm incurred in connection with the retention of the Accounting Firm pursuant to this Section 5(f) shall be borne by the Company. All fees and expenses of the accountants and lawyers chosen by the Executive and, if retained, the additional accounting firm, incurred in connection with the resolution of any disputes pursuant to this Section 5(f) shall be borne by the non-prevailing party.

(iii) As a result of uncertainty in the application of Sections 280G and 4999 of the Code at the time of the determination by the Accounting Firm, the parties hereto acknowledge and agree that it is possible that the Company will have paid a Gross-Up Amount that exceeds the amount that the Company should have paid pursuant to this Section 5(f) (the "Overpayment") or that the Company will have paid a Gross-Up Amount that is less than the amount that the Company should have paid pursuant to this Section 5(f) (the "Underpayment"). In the event the Accounting Firm, in a written opinion delivered to the Company and to the Executive, determines that, based upon the assertion of a deficiency by the Internal Revenue Service against the Executive, which the Accounting Firm believes has a high probability of success, an Overpayment has been made, then any such Overpayment shall, to the extent permitted under applicable law (including Section 402 of the Sarbanes-Oxley Act of 2002), be treated for all purposes as a loan to the Executive which the Executive shall promptly repay to the Company together with interest at the Applicable Federal Rate provided for in Section 7872(f)(2) of the Code; provided, however, the Executive may contest any such determination by the Accounting Firm at his own expense. In the event the Accounting Firm, based upon controlling precedent or other substantial authority, determines that an Underpayment has occurred, any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive together with interest at the Applicable Federal Rate provided for in Section 7872(f)(2) of the Code.

(g) Treatment of Stock Options Upon Change of Control or a Termination.

(i) All stock options or similar rights granted to Executive pursuant to the Company's stock option plans including, without limitation, any restricted stock shall immediately vest as of the effective date of such "change of control".

(ii) If this Agreement is terminated pursuant to clause (c) of this Section 5 or if Executive resigns his employment, all unvested stock options granted to Executive pursuant to the Company's stock plans shall terminate immediately.

To the extent that the Executive has been granted stock options intended to be incentive stock options under Section 422 of the Internal Revenue Code, such stock options shall cease to be incentive stock options and shall be treated as nonqualified stock options if the options are exercised by the Employee more than three (3) months (one year in case of death or disability as defined in Section 422 of the Internal Revenue Code) following termination of employment.

Except as expressly modified by this clause (g) of this Section 5, all stock options and similar rights granted under the Company's stock plans shall remain subject to all of the terms and conditions of the applicable stock plans and agreements evidencing the grants thereof.

(h) Exclusive Remedy. Executive agrees that the payments other benefits provided and contemplated by this Agreement shall constitute the sole and exclusive obligation of the Company in respect of Executive's employment with and relationship to the Company and that the full payment thereof shall be the sole and exclusive remedy for any termination of Executive's employment. Executive covenants not to assert or pursue any other remedies, at law or in equity, with respect to any termination of employment.

**6. Business Expenses.** During the Term of this Agreement, to the extent that such expenditures satisfy the criteria under the Internal Revenue Code or other applicable laws for deductibility by the Company (whether or not fully deductible by the Company) for federal income tax purposes as ordinary and necessary business expenses, the Company shall provide the Executive with reimbursement of reasonable business expenses incurred by the Executive while conducting Company business in a manner consistent with the Company's policies and provisions applicable to the Executives of the Company.

**7. Confidential Information.**

(a) Executive acknowledges that the nature of Executive's employment by the Company is such that Executive shall have access to information of a confidential and/or trade secret nature which has great value to the Company and which constitutes a substantial basis and foundation upon which the business of the Company is based. Such information includes (A) trade secrets, inventions, mask works, ideas, processes, manufacturing, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments or experimental work, designs, and techniques; (B) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; (C) information regarding the skills and compensation of other employees the Company or its affiliates, including but not limited to, their respective business plans or clients (including, without limitation, customer lists and lists of customer sources), or information relating to the products, services, customers, sales or business affairs of the Company or its Affiliates (the "Confidential Information").

(b) Executive shall keep all such Confidential Information in confidence during the Term of this Agreement and at any time thereafter and shall not disclose any of such Confidential Information to any other person, except to the extent such disclosure is (i) necessary to the performance of this Agreement and in furtherance of the Company's best interests, (ii) required by applicable law, (iii) publicly known within the relevant industry, or (iv) authorized in writing by the Board. Upon termination of Executive's employment with the Company, Executive shall deliver to the Company all documents, records, notebooks, work papers, and all similar material containing any of the foregoing information, whether prepared by Executive, the Company or anyone else.

**8. Non-Competition.** Executive covenants and agrees that commencing on the date hereof and continuing for the entire Term of Executive's employment and for period of twelve (12) months thereafter (the "Restricted Period"), Executive shall not:

(a) Work or be affiliated with in any capacity (including as a founder, employee, owner, consultant, or otherwise), directly or indirectly, for himself or on behalf of any other entity, in any business that manufactures photomasks or that is otherwise competitive with the business of the Company or any subsidiary of the Company at any time during Executive's employment or during the Restricted Period, such as, for example and not as a limitation, Toppan, DNP and the photomask manufacturing operations of semiconductor manufacturers such as IBM and TSMC.

(b) Solicit, attempt to solicit, or assist others in soliciting or attempting to solicit, directly or indirectly, any business related to the business of the Company from any customers or prospective customers of the Company; for the purposes of this Section 8, the term "customer" means any entity or person who is or has been a client or customer of the Company during the time which Executive was employed with the Company, and the term "prospective customer" means a person or entity who became known to the Company during the time which Executive was employed with the Company as a result of that person's or entity's interest in obtaining the services or products of the Company; and

(c) Solicit, attempt to solicit, or assist others in soliciting or attempting to solicit, directly or indirectly, for employment or similar capacity, any person who is an employee of, or an independent contractor for, the Company or its direct or indirect subsidiaries, parents or Affiliates or who was such an employee within twelve (12) months prior to the date of such solicitation or attempted solicitation.

(d) Executive acknowledges that in the event of his employment with the Company terminates for any reason, Executive will be able to earn a livelihood without violating the foregoing restrictions.

(e) If any provision or clause, or portion thereof, within this Section 8 shall be held by any court or other tribunal of competent jurisdiction to be illegal, invalid, or unenforceable in such jurisdiction, the remainder of such provision shall not be thereby affected and shall be given full effect, without regard to the invalid portion. It is the intention of the parties that, if any court construes any provision or clause within this Section 8, or any portion thereof, to be illegal, void or unenforceable because of the duration of such provision or the geographic area or matter covered thereby, such court shall reduce the duration, area, or matter of such provision, and, in its reduced form, such provision shall then be enforceable and shall be enforced.

## **9. Intellectual Property.**

(a) Executive has no interest (except as disclosed to the Company) in any inventions, designs, improvements, patents, copyrights and discoveries which are useful in or directly or indirectly related to the business of the Company or to any experimental work carried on by the Company. Except as may be limited by applicable law, all inventions, designs, improvements, patents, copyrights and discoveries conceived by Executive during the Term of this Agreement which are useful in or directly or indirectly related to the business of the Company or to any experimental work carried on by the Company, shall be the property of the Company. Executive will promptly and fully disclose to the Company all such inventions, designs, improvements, patents, copyrights and discoveries (whether developed individually or with other persons) and will take all steps necessary and reasonably required to assure the Company's ownership thereof and to assist the Company in protecting or defending the Company's proprietary rights therein.

(b) Executive also agrees to assist the Company in obtaining United States or foreign letters patent and copyright registrations covering inventions assigned hereunder to the Company and that Executive's obligation to assist the Company shall continue beyond the termination of Executive's employment but the Company shall compensate Executive at a reasonable rate for time actually spent by Executive at the Company's request with respect to such assistance. If the Company is unable because of Executive's mental or physical incapacity (for the period of such incapacity only) or for any other reason to secure Executive's signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations covering inventions assigned to the Company (after reasonable efforts to contact employee), then Executive hereby irrevocably designates and appoints the Company, each of its duly authorized officers and agents as Executive's agent and attorney-in-fact to act for and in Executive's behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by Executive. Executive will perform all other lawful acts necessary to assist the Company to enforce any copyrights or patents obtained including, without limitation, testifying in any suit or proceeding involving any of the copyrights or patents or executing any documents deemed necessary by the Company, all without further consideration but at the expense of the Company. If Executive is called upon to render such assistance after the termination of Executive's employment, then Executive shall be entitled to a fair and reasonable per diem fee in addition to reimbursement of any expenses incurred at the request of the Company.



**10. Remedies.** The parties hereto agree that the services to be rendered by Executive pursuant to this Agreement, and the rights and privileges granted to the Company pursuant to this Agreement, are of a special, unique, extraordinary and intellectual character, which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in any action at law, and that a breach by Executive of any of the terms of this Agreement will cause the Company great and irreparable injury and damage. Executive hereby expressly agrees that the Company shall be entitled to the remedies of injunction, specific performance and other equitable relief to prevent a breach of this Agreement by Executive. This Section 10 shall not be construed as a waiver of any other rights or remedies which the Company may have for damages or otherwise.

**11. Return of Property.** Executive agrees to return, on or before his last day of employment, all property belonging to the Company, including but not limited to computers, PDA, telephone and other credit cards, Company business records, Company automobile (if applicable), etc.

**12. Severability.** If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the extent possible.

**13. Succession.** This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns and any such successor or assignee shall be deemed substituted for the Company under the terms of this Agreement for all purposes. As used herein, "successor" and "assignee" shall include any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires the stock of the Company or to which the Company assigns this Agreement by operation of law or otherwise. The obligations and duties of Executive hereunder are personal and otherwise not assignable. Executive's obligations and representations under this Agreement will survive the termination of Executive's employment, regardless of the manner of such termination.

**14. Notices.** Any notice or other communication provided for in this Agreement shall be in writing and sent if to the Company to its principal office at:

Photronics, Inc.  
15 Secor Road, PO Box 5226  
Brookfield, Connecticut 06804

Attention: Chief Executive Officer  
With a copy to the Vice President, General Counsel of Photronics, Inc.

or at such other address as the Company may from time to time in writing designate, and if to Executive at the address set forth above or at such address as Executive may from time to time in writing designate. Each such notice or other communication shall be effective (I) if given by written telecommunication, three (3) days after its transmission to the applicable number so specified in (or pursuant to) this Section 14 and a verification of receipt is received, (ii) if given by certified mail, once verification of receipt is received, or (iii) if given by any other means, when actually delivered to the addressee at such address and verification of receipt is received.

**15. Adequate Consideration.** Executive acknowledges that the cash severance and other benefits to be provided by the Company to Executive are not available under any current plan or policies of the Company. Accordingly, Executive further acknowledges that the payments and benefits under this Agreement provide adequate consideration for Executive's obligations to the Company contained in Section 7 (Confidential Information), Section 8 (Non-Competition), Section 10 (Remedies) and Exhibit A (Release).

**16. Entire Agreement.** This Agreement contains the entire agreement of the parties relating to the subject matter hereof and supersedes any prior agreements, undertakings, commitments and practices relating to Executive's employment by the Company.

**17. Amendments.** No amendment or modification of the terms of this Agreement shall be valid unless made in writing, duly executed by both parties.

**18. Waiver.** No failure on the part of any party to exercise or delay in exercising any right hereunder shall be deemed a waiver thereof or of any other right, nor shall any single or partial exercise preclude any further or other exercise of such right or any other right.

**19. Governing Law.** This Agreement, and the legal relations between the parties, shall be governed by and construed in accordance with the laws of the State of Connecticut without regard to conflicts of law doctrines and any court action arising out of this Agreement shall be brought in any court of competent jurisdiction within the State of Connecticut.

**20. Withholding.** All compensation payable hereunder, including salary and other benefits, shall be subject to applicable taxes, withholding and other required, normal or elected employee deductions.

**21. Counterparts.** This Agreement and any amendment hereto may be executed in one or more counterparts. All of such counterparts shall constitute one and the same agreement and shall become effective when a copy signed by each party has been delivered to the other party.

**22. Headings.** Section and other headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

**THE COMPANY**

PHOTRONICS, INC.

By:           /s/ Constantine S. Macricostas          

Name: Constantine S. Macricostas

Title: Chief Executive Officer and President

**EXECUTIVE**

          /s/ Peter S. Kirlin          

Name: Peter S. Kirlin

Address: 18 Butternut Ridge, Newtown, CT 06470

## EXHIBIT A

### RELEASE

1. I signed an Employment Agreement with Photronics, Inc. (the "Company"), dated May 21, 2010 (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.

2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under this Release. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any federal, state, or local statute, regulation, ordinance, or law of any kind, including under the Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"), the Connecticut Human Rights and Opportunities Law, the Connecticut Family and Medical Leave Law, and the Connecticut Age Discrimination and Employee Insurance Benefits Law, and including claims for wrongful discharge, breach of contract, or in tort.

3. I agree not to criticize, denigrate, or otherwise disparage the Company or any other Released Party.

4. This Release is not an admission of guilt or wrongdoing by either me or the Company. This Release constitutes the entire agreement between me and the Company with respect to the subject matter hereof, and I am not signing this Release in reliance on any representation not expressly set forth herein. No provisions of this Release may be modified, waived, amended or discharged except by a written document signed by me and a duly authorized Company representative. This Release binds my heirs, administrators, representatives, executors, successors, and assigns, and will inure to the benefit of all Released Parties and their respective heirs, administrators, representatives, executors, successors, and assigns. The invalidity or unenforceability of any provision of this Release shall not affect the validity or enforceability of any other provision of this Release, which shall remain in full force and effect. A waiver of any conditions or provisions of this Release in a given instance shall not be deemed a waiver of such conditions or provisions at any other time. If any of the provisions, terms or clauses of this Release are declared illegal, unenforceable or ineffective in a legal forum, those provisions, terms and clauses shall be deemed severable, such that all other provisions, terms and clauses of this Release shall remain valid and binding upon both parties. If any of the provisions, terms or clauses of this Release are found by a court to be overly broad, those provisions, terms and clauses shall be enforceable (and modified and enforced) to the broadest extent permissible under the law. The validity, interpretation, construction, and performance of this Release shall be governed by the internal laws of the State of Connecticut (excluding any that mandate the use of another jurisdiction's laws).

5. All payments to me under this Release shall be net of applicable withholdings and deductions.

6. The Company advised me to take this Release home, read it, and carefully consider all of its terms before signing it. The Company gave me at least 21 days in which to consider this Release, and I waive any right I might have to additional time beyond this consideration period within which to consider this Release. The Company advised me to discuss this Release with my own attorney (at my own expense) during this period if I wished to do so. I understand that I may revoke my acceptance of this Release within seven (7) days after I sign it ("Revocation Period"). I understand that if I revoke my acceptance of this Release, I will not be entitled to any payments or benefits hereunder or otherwise in connection with the termination of my employment with the Company, except as required by law in the absence of the Agreement and this Release. I have carefully read this Release, fully understand what it means, and am entering into it voluntarily.

Peter Kirlin

---

Print Name

Date

---

Signature

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of May 21, 2010 by and between Photronics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 15 Secor Road, Brookfield, CT 06804 and Richelle E. Burr ("Executive") residing at 7 Greenknoll Drive, Brookfield, CT 06804.

WITNESSETH:

WHEREAS, the Company and Executive desire to enter into this Agreement to assure the Company of the continuing service of Executive and to set forth the terms and conditions of Executive's employment with the Company.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

**1. Term.** The Company agrees to employ Executive and Executive hereby accepts such employment, in accordance with the terms of this Agreement. Subject to Section 5, the term of Executive's employment shall commence on the date hereof and continue for three (3) years thereafter unless this Agreement is earlier terminated as provided herein (the "Term"); provided, however, that unless the Company gives written notice to Executive at least thirty (30) days prior to the end of the Term of this Agreement (as the Term may be extended pursuant to this Section 1), on each anniversary of the date hereof, the Term of this Agreement shall automatically be extended for an additional one (1) year period.

**2. Services.** So long as this Agreement shall continue in effect, Executive shall devote Executive's full business time, energy and ability to the business, affairs and interests of the Company and its subsidiaries and matters related thereto. Executive shall use his best efforts and abilities to promote the Company's interests and shall perform faithfully the services contemplated by this Agreement in accordance with the Company's policies as established by the Board of Directors of the Company.

**3. Duties and Responsibilities.**

(a) Executive shall serve as the Vice President, General Counsel and Secretary. In the performance of Executive's duties, Executive shall report directly to the CEO or as otherwise directed by the CEO or the Company's Board of Directors, and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the CEO or the Company's Board of Directors.

(b) In addition, Executive agrees to observe and comply with the policies, rules and regulations of the Company. The Company agrees that the duties which may be assigned to Executive shall be the customary duties of the office of Vice President, General Counsel and Secretary and shall not be inconsistent with the provisions of the charter documents of the Company or applicable law.

#### **4. Compensation.**

(a) **Base Compensation.** During the Term, the Company agrees to pay Executive a base salary at the rate of \$170,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "**Base Salary**"). All payments required hereunder, including the payments required by this **Section 4(a)**, may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

(b) **Periodic Review.** The Compensation Committee or the Board of Directors of the Company shall review Executive's Base Salary and Benefits (as defined below) from time to time in accordance with the normal business practices of the Company. The Company may in its sole discretion increase the Base Salary during the Term. The amount of any increase combined with the previous year's Base Salary shall then constitute Executive's Base Salary for purposes of this Agreement.

(c) **Additional Benefits.** During the Term, the Executive shall be entitled to participate in the employee benefit plans and arrangements as the Company may establish from time to time in which other employees similarly situated are entitled to participate (which may include, without limitation, bonus plan(s), medical plan, dental plan, disability plan, basic life insurance and business travel accident insurance plan, 401(k) plan, stock option or stock purchase plans or any successor plans thereto (the "**Benefits**")). The Company shall have the right to terminate or change any such plans or programs at any time.

(d) **Automobile Allowance.** During the Term of this Agreement, the Company shall provide the Executive with an automobile allowance or company car consistent with the Company's policies and provisions applicable to other similarly situated executives of the Company.

(e) **Vacation.** During the Term of this Agreement, Executive shall be entitled to four (4) weeks' paid vacation per calendar year, which shall not be transferable to any subsequent year.

**5. Termination.** This Agreement and all rights and obligations hereunder, except the rights and obligations contained in this **Section 5**, **Section 7** (Confidential Information), **Section 8** (Non-Competition), **Section 9** (Intellectual Property) and **Section 10** (Remedies), which shall survive any termination hereunder, shall terminate upon the earliest to occur of any of the following:

(a) Resignation without Good Reason; Retirement. Upon the resignation by Executive without Good Reason (as defined below) following at least thirty (30) days written notice to the Company or retirement from the Company in accordance with the normal retirement policies of the Company, Executive shall be entitled to receive a payment in the amount of the sum of (A) Executive's Base Salary through the last day of employment to the extent not theretofore paid, (B) any compensation previously deferred by Executive (together with any accrued interest or earnings thereon), and (C) any accrued vacation pay according to Company U.S. Vacation Policy, in each case to the extent not theretofore paid (the sum of the amounts described in clauses (A), (B) and (C) shall be hereinafter referred to as the "Accrued Obligations"), in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the last day of employment or any earlier time required by applicable law.

(b) Death or Disability of Executive.

(i) If Executive's employment is terminated by reason of Executive's death or disability, this Agreement shall terminate without further obligations to Executive (or Executive's heirs or legal representatives) under this Agreement, other than for:

(1) Payment of any Accrued Obligations, which shall be paid to Executive or Executive's estate or beneficiary, as applicable, in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.

(2) Payment to Executive or Executive's estate or beneficiary, as applicable, of any amount accrued pursuant to the terms of any other applicable benefit plan.

(ii) If Executive shall become disabled, Executive's employment may be terminated only by written notice from the Company to Executive.

(iii) For the purposes of this Agreement, "disability" or "disabled" shall mean a mental or physical incapacity which prevents Executive from performing Executive's duties with the Company for a period of three hundred sixty (360) consecutive calendar days, as certified by a physician selected by the Company or its insurers.

(c) Termination for Cause.

(i) The Company may terminate Executive's employment and all of Executive's rights to receive Base Salary, and any Benefits hereunder for Cause.

(ii) Upon such termination for Cause, Executive shall be entitled to receive any Accrued Obligations, which shall be paid to Executive in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.



(iii) For purposes of this Agreement, the term “Cause” shall be defined as any of the following:

- (1) Executive’s material breach of any of any obligations under this Agreement (other than by reason of physical or mental illness, injury, or condition);
- (2) Executive’s conviction by, or entry of a plea of “guilty” or “nolo contendere” in a court of competent and final jurisdiction for any felony that impairs his ability to perform his duties to the Company or any crime of moral turpitude;
- (3) Executive’s commission of an act of fraud upon the Company;
- (4) Executive’s engaging in willful or reckless misconduct or gross negligence in connection with any property or activity of the Company or its Affiliates;
- (5) Executive’s repeated and intemperate use of alcohol or illegal drugs after written notice from the Board or Directors;
- (6) Executive’s material breach of any other material obligation to the Company (other than by reason of physical or mental illness, injury, or condition) that is or could reasonably be expected to result in material harm to the Company;
- (7) Executive’s becoming insolvent or filing for bankruptcy;
- (8) Executive’s becoming barred or prohibited by the SEC from holding my position with the Company; or
- (9) Executive’s violation of any duty of loyalty (i.e., engaging in self-interested transactions, misappropriation of business opportunities that belong to the Company, or a breach of Executive’s fiduciary duties to the Company).

(d) Termination Without Cause; Resignation For Good Reason.

(i) Notwithstanding any other provision of this Section 5, (i) the Company may, at its option and at any time, provide to Executive: (A) up to twelve (12) months’ advance written notice of termination of employment without Cause, or (B) written notice of a current material adverse change in the Executive’s position (such notice in (A) or (B) being referred to herein as a “Working Notice”). If the Company issues a Working Notice to the Executive, any entitlement to a Severance Payment and Benefit Period (as defined below) shall be reduced in proportion to the period covered by the Working Notice. During the period covered by the Working Notice, the Executive shall continue to provide the services according to Section 2, hereof as an employee of the Company. If the Executive resigns during the period covered by the Working Notice, then Executive shall receive only the Accrued Obligations through the date of termination. Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

(ii) If Executive is so terminated without Cause or resigns for Good Reason, Executive shall receive from the Company:

(1) Any Accrued Obligations through the date of termination, which shall be paid to Executive in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law.

(2) A payment (“Severance Payment”) equal to twelve (12) months of Executive’s current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments, following the expiration of the Revocation Period defined in the Release referred to in Section 5(d)(iv), in accordance with the Company’s customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) Payment of Executive’s COBRA premiums for the 360-day period following termination of employment (“Benefit Period”), provided Executive elects to receive COBRA continuation coverage and is eligible for COBRA continuation coverage.

(iii) As used in this Agreement, the term “Good Reason” shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company’s principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) a material diminution in Executive’s overall employee benefits not the result of changes in benefit plans affecting other employees, without the consent of Executive.

(iv) As a condition to receiving the payment and benefits extension contemplated by Section 5(d) or 5(e), Executive agrees to execute and deliver to the Company the Release substantially in the form attached to this Agreement as Exhibit A.

(e) Change of Control.

(i) For purposes of the Agreement, a “change of control” means, and shall be deemed to have taken place, if;

(1) any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity or person, or any syndicate or group deemed to be a person under Section 14 (d) (2) of the Exchange Act, is or becomes the “beneficial owner” (as defined in Rule 13d-3 of the General Rules and Regulations under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the combined voting power of the Company’s then outstanding securities entitled to vote in the election of directors of the Company;

(2) during any period of two (2) consecutive years (not including any period prior to the execution of this Agreement) individuals who at the beginning of such period constituted the Board and any new directors, whose election by the Board or nomination for election by the Company’s shareholders was approved by a vote of at least three-fourths (3/4ths) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority of the Board;

(3) there occurs a reorganization, merger, consolidation or other corporate transaction involving the Company (a "Transaction"), and shareholders of the Company immediately prior to such Transaction do not, immediately after the Transaction, own more than 50% of the combined voting power of the Company or other corporation resulting from such Transaction; or

(4) there is a "change in control" of the Company within the meaning of Section 280G of the U.S. Federal internal revenue code of 1986.

(iii) If during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), the Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof), including an election by the Company or its successor not to extend this Agreement pursuant to Section 1, or the Executive resigns for Good Reason as defined in Section 5(e)(ii), "Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(ii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

(iv) Any payments to be made to Executive in connection with this Section 5(e) shall be made in a lump sum, subject to statutory deductions and withholdings, in cash within ten (10) business days after the date of termination or any earlier time required by applicable law, following the expiration of the Revocation Period defined in the Release referred to in Section 5(d)(iv).

(f) Tax Consideration.

(i) In the event that the aggregate of all payments or benefits made or provided to the Executive under this Agreement and under all other plans and programs of the Company (the "Aggregate Payment") is determined to constitute a Parachute Payment, as such term is defined in Section 280G(b)(2) of the Internal Revenue Code of 1986, as amended (the "Code"), the Company shall pay to the Executive an additional amount (the "Gross-Up Amount"), prior to the time any excise tax ("Excise Tax") is imposed by Section 4999 of the Code is payable with respect to such Aggregate Payment, which, after the imposition of all excise, federal, state and local income taxes, enables the Executive to retain a total amount equal to the Aggregate Payment prior to the payment of the Gross-Up Amount. Notwithstanding the foregoing, if it shall be determined that the Executive is entitled to receive the Gross-Up Amount, but the portion of the Aggregate Payment that would be treated as a Parachute Payment does not exceed 125% of the greatest amount that could be paid to the Executive such that the receipt of the Aggregate Payment would not give rise to any Excise Tax (the "Safe Harbor Amount"), then no Gross-Up Amount shall be paid to the Executive and the Aggregate Payment shall be reduced to the Safe Harbor Amount.

(ii) All determinations required to be made under this Section 5(f), including whether the Aggregate Payment constitutes a Parachute Payment, the amount of the Gross-Up Amount to be paid to the Executive, if any, and the determination of the Safe Harbor Amount, if applicable, shall be made in good faith by the by the Company's regular outside auditors (the "Accounting Firm"); provided, however, that such Accounting Firm presents its rationale and supporting calculations to the Executive upon his request and shall in good faith work to resolve any discrepancies raised by accountants or lawyers chosen by the Executive who present reasonable critiques of the determination. If a dispute over the methodology or conclusions of the Accounting Firm cannot be resolved between the parties, an impartial accounting firm shall be consulted to resolve the dispute. All fees and expenses of the Accounting Firm incurred in connection with the retention of the Accounting Firm pursuant to this Section 5(f) shall be borne by the Company. All fees and expenses of the accountants and lawyers chosen by the Executive and, if retained, the additional accounting firm, incurred in connection with the resolution of any disputes pursuant to this Section 5(f) shall be borne by the non-prevailing party.

(iii) As a result of uncertainty in the application of Sections 280G and 4999 of the Code at the time of the determination by the Accounting Firm, the parties hereto acknowledge and agree that it is possible that the Company will have paid a Gross-Up Amount that exceeds the amount that the Company should have paid pursuant to this Section 5(f) (the "Overpayment") or that the Company will have paid a Gross-Up Amount that is less than the amount that the Company should have paid pursuant to this Section 5(f) (the "Underpayment"). In the event the Accounting Firm, in a written opinion delivered to the Company and to the Executive, determines that, based upon the assertion of a deficiency by the Internal Revenue Service against the Executive, which the Accounting Firm believes has a high probability of success, an Overpayment has been made, then any such Overpayment shall, to the extent permitted under applicable law (including Section 402 of the Sarbanes-Oxley Act of 2002), be treated for all purposes as a loan to the Executive which the Executive shall promptly repay to the Company together with interest at the Applicable Federal Rate provided for in Section 7872(f)(2) of the Code; provided, however, the Executive may contest any such determination by the Accounting Firm at his own expense. In the event the Accounting Firm, based upon controlling precedent or other substantial authority, determines that an Underpayment has occurred, any such Underpayment shall be promptly paid by the Company to or for the benefit of the Executive together with interest at the Applicable Federal Rate provided for in Section 7872(f)(2) of the Code.

(g) Treatment of Stock Options Upon Change of Control or a Termination.

(i) All stock options or similar rights granted to Executive pursuant to the Company's stock option plans including, without limitation, any restricted stock shall immediately vest as of the effective date of such "change of control".

(ii) If this Agreement is terminated pursuant to clause (c) of this Section 5 or if Executive resigns his employment, all unvested stock options granted to Executive pursuant to the Company's stock plans shall terminate immediately.

To the extent that the Executive has been granted stock options intended to be incentive stock options under Section 422 of the Internal Revenue Code, such stock options shall cease to be incentive stock options and shall be treated as nonqualified stock options if the options are exercised by the Employee more than three (3) months (one year in case of death or disability as defined in Section 422 of the Internal Revenue Code) following termination of employment.

Except as expressly modified by this clause (g) of this Section 5, all stock options and similar rights granted under the Company's stock plans shall remain subject to all of the terms and conditions of the applicable stock plans and agreements evidencing the grants thereof.

(h) Exclusive Remedy. Executive agrees that the payments other benefits provided and contemplated by this Agreement shall constitute the sole and exclusive obligation of the Company in respect of Executive's employment with and relationship to the Company and that the full payment thereof shall be the sole and exclusive remedy for any termination of Executive's employment. Executive covenants not to assert or pursue any other remedies, at law or in equity, with respect to any termination of employment.

**6. Business Expenses.** During the Term of this Agreement, to the extent that such expenditures satisfy the criteria under the Internal Revenue Code or other applicable laws for deductibility by the Company (whether or not fully deductible by the Company) for federal income tax purposes as ordinary and necessary business expenses, the Company shall provide the Executive with reimbursement of reasonable business expenses incurred by the Executive while conducting Company business in a manner consistent with the Company's policies and provisions applicable to the Executives of the Company.

**7. Confidential Information.**

(a) Executive acknowledges that the nature of Executive's employment by the Company is such that Executive shall have access to information of a confidential and/or trade secret nature which has great value to the Company and which constitutes a substantial basis and foundation upon which the business of the Company is based. Such information includes (A) trade secrets, inventions, mask works, ideas, processes, manufacturing, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments or experimental work, designs, and techniques; (B) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; (C) information regarding the skills and compensation of other employees the Company or its affiliates, including but not limited to, their respective business plans or clients (including, without limitation, customer lists and lists of customer sources), or information relating to the products, services, customers, sales or business affairs of the Company or its Affiliates (the "Confidential Information").

(b) Executive shall keep all such Confidential Information in confidence during the Term of this Agreement and at any time thereafter and shall not disclose any of such Confidential Information to any other person, except to the extent such disclosure is (i) necessary to the performance of this Agreement and in furtherance of the Company's best interests, (ii) required by applicable law, (iii) publicly known within the relevant industry, or (iv) authorized in writing by the Board. Upon termination of Executive's employment with the Company, Executive shall deliver to the Company all documents, records, notebooks, work papers, and all similar material containing any of the foregoing information, whether prepared by Executive, the Company or anyone else.

**8. Non-Competition.** Executive covenants and agrees that commencing on the date hereof and continuing for the entire Term of Executive's employment and for period of twelve (12) months thereafter (the "Restricted Period"), Executive shall not:

(a) Work or be affiliated with in any capacity (including as a founder, employee, owner, consultant, or otherwise), directly or indirectly, for himself or on behalf of any other entity, in any business that manufacturers photomasks or that is otherwise competitive with the business of the Company or any subsidiary of the Company at any time during Executive's employment or during the Restricted Period, such as, for example and not as a limitation, Toppan, DNP and the photomask manufacturing operations of semiconductor manufacturers such as IBM and TSMC.

(b) Solicit, attempt to solicit, or assist others in soliciting or attempting to solicit, directly or indirectly, any business related to the business of the Company from any customers or prospective customers of the Company; for the purposes of this Section 8, the term "customer" means any entity or person who is or has been a client or customer of the Company during the time which Executive was employed with the Company, and the term "prospective customer" means a person or entity who became known to the Company during the time which Executive was employed with the Company as a result of that person's or entity's interest in obtaining the services or products of the Company; and

(c) Solicit, attempt to solicit, or assist others in soliciting or attempting to solicit, directly or indirectly, for employment or similar capacity, any person who is an employee of, or an independent contractor for, the Company or its direct or indirect subsidiaries, parents or Affiliates or who was such an employee within twelve (12) months prior to the date of such solicitation or attempted solicitation.

(d) Executive acknowledges that in the event of his employment with the Company terminates for any reason, Executive will be able to earn a livelihood without violating the foregoing restrictions.

(e) If any provision or clause, or portion thereof, within this Section 8 shall be held by any court or other tribunal of competent jurisdiction to be illegal, invalid, or unenforceable in such jurisdiction, the remainder of such provision shall not be thereby affected and shall be given full effect, without regard to the invalid portion. It is the intention of the parties that, if any court construes any provision or clause within this Section 8, or any portion thereof, to be illegal, void or unenforceable because of the duration of such provision or the geographic area or matter covered thereby, such court shall reduce the duration, area, or matter of such provision, and, in its reduced form, such provision shall then be enforceable and shall be enforced.

#### **9. Intellectual Property.**

(a) Executive has no interest (except as disclosed to the Company) in any inventions, designs, improvements, patents, copyrights and discoveries which are useful in or directly or indirectly related to the business of the Company or to any experimental work carried on by the Company. Except as may be limited by applicable law, all inventions, designs, improvements, patents, copyrights and discoveries conceived by Executive during the Term of this Agreement which are useful in or directly or indirectly related to the business of the Company or to any experimental work carried on by the Company, shall be the property of the Company. Executive will promptly and fully disclose to the Company all such inventions, designs, improvements, patents, copyrights and discoveries (whether developed individually or with other persons) and will take all steps necessary and reasonably required to assure the Company's ownership thereof and to assist the Company in protecting or defending the Company's proprietary rights therein.

(b) Executive also agrees to assist the Company in obtaining United States or foreign letters patent and copyright registrations covering inventions assigned hereunder to the Company and that Executive's obligation to assist the Company shall continue beyond the termination of Executive's employment but the Company shall compensate Executive at a reasonable rate for time actually spent by Executive at the Company's request with respect to such assistance. If the Company is unable because of Executive's mental or physical incapacity (for the period of such incapacity only) or for any other reason to secure Executive's signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations covering inventions assigned to the Company (after reasonable efforts to contact employee), then Executive hereby irrevocably designates and appoints the Company, each of its duly authorized officers and agents as Executive's agent and attorney-in-fact to act for and in Executive's behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by Executive. Executive will perform all other lawful acts necessary to assist the Company to enforce any copyrights or patents obtained including, without limitation, testifying in any suit or proceeding involving any of the copyrights or patents or executing any documents deemed necessary by the Company, all without further consideration but at the expense of the Company. If Executive is called upon to render such assistance after the termination of Executive's employment, then Executive shall be entitled to a fair and reasonable per diem fee in addition to reimbursement of any expenses incurred at the request of the Company.

**10. Remedies.** The parties hereto agree that the services to be rendered by Executive pursuant to this Agreement, and the rights and privileges granted to the Company pursuant to this Agreement, are of a special, unique, extraordinary and intellectual character, which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in any action at law, and that a breach by Executive of any of the terms of this Agreement will cause the Company great and irreparable injury and damage. Executive hereby expressly agrees that the Company shall be entitled to the remedies of injunction, specific performance and other equitable relief to prevent a breach of this Agreement by Executive. This Section 10 shall not be construed as a waiver of any other rights or remedies which the Company may have for damages or otherwise.

**11. Return of Property.** Executive agrees to return, on or before his last day of employment, all property belonging to the Company, including but not limited to computers, PDA, telephone and other credit cards, Company business records, Company automobile (if applicable), etc.

**12. Severability.** If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the extent possible.

**13. Succession.** This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns and any such successor or assignee shall be deemed substituted for the Company under the terms of this Agreement for all purposes. As used herein, "successor" and "assignee" shall include any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires the stock of the Company or to which the Company assigns this Agreement by operation of law or otherwise. The obligations and duties of Executive hereunder are personal and otherwise not assignable. Executive's obligations and representations under this Agreement will survive the termination of Executive's employment, regardless of the manner of such termination.



**14. Notices.** Any notice or other communication provided for in this Agreement shall be in writing and sent if to the Company to its principal office at:

Photronics, Inc.  
15 Secor Road, PO Box 5226  
Brookfield, Connecticut 06804

Attention: Chief Executive Officer  
With a copy to the Vice President, General Counsel of Photronics, Inc.

or at such other address as the Company may from time to time in writing designate, and if to Executive at the address set forth above or at such address as Executive may from time to time in writing designate. Each such notice or other communication shall be effective (I) if given by written telecommunication, three (3) days after its transmission to the applicable number so specified in (or pursuant to) this Section 14 and a verification of receipt is received, (ii) if given by certified mail, once verification of receipt is received, or (iii) if given by any other means, when actually delivered to the addressee at such address and verification of receipt is received.

**15. Adequate Consideration.** Executive acknowledges that the cash severance and other benefits to be provided by the Company to Executive are not available under any current plan or policies of the Company. Accordingly, Executive further acknowledges that the payments and benefits under this Agreement provide adequate consideration for Executive's obligations to the Company contained in Section 7 (Confidential Information), Section 8 (Non-Competition), Section 10 (Remedies) and Exhibit A (Release).

**16. Entire Agreement.** This Agreement contains the entire agreement of the parties relating to the subject matter hereof and supersedes any prior agreements, undertakings, commitments and practices relating to Executive's employment by the Company.

**17. Amendments.** No amendment or modification of the terms of this Agreement shall be valid unless made in writing, duly executed by both parties.

**18. Waiver.** No failure on the part of any party to exercise or delay in exercising any right hereunder shall be deemed a waiver thereof or of any other right, nor shall any single or partial exercise preclude any further or other exercise of such right or any other right.

**19. Governing Law.** This Agreement, and the legal relations between the parties, shall be governed by and construed in accordance with the laws of the State of Connecticut without regard to conflicts of law doctrines and any court action arising out of this Agreement shall be brought in any court of competent jurisdiction within the State of Connecticut.

**20. Withholding.** All compensation payable hereunder, including salary and other benefits, shall be subject to applicable taxes, withholding and other required, normal or elected employee deductions.

**21. Counterparts.** This Agreement and any amendment hereto may be executed in one or more counterparts. All of such counterparts shall constitute one and the same agreement and shall become effective when a copy signed by each party has been delivered to the other party.

**22. Headings.** Section and other headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

**THE COMPANY**

PHOTRONICS, INC.

By: /s/ Constantine S. Macricostas

Name: Constantine S. Macricostas

Title: Chief Executive Officer and President

**EXECUTIVE**

/s/ Richelle E. Burr

Name: Richelle E. Burr

Address: 7 Greenknoll Dr.

Brookfield, CT 06804

## EXHIBIT A

### RELEASE

1. I signed an Employment Agreement with Photronics, Inc. (the "Company"), dated \_\_\_\_\_ (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.
2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under this Release. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any federal, state, or local statute, regulation, ordinance, or law of any kind, including under the Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"), the Connecticut Human Rights and Opportunities Law, the Connecticut Family and Medical Leave Law, and the Connecticut Age Discrimination and Employee Insurance Benefits Law, and including claims for wrongful discharge, breach of contract, or in tort.
3. I agree not to criticize, denigrate, or otherwise disparage the Company or any other Released Party.
4. This Release is not an admission of guilt or wrongdoing by either me or the Company. This Release constitutes the entire agreement between me and the Company with respect to the subject matter hereof, and I am not signing this Release in reliance on any representation not expressly set forth herein. No provisions of this Release may be modified, waived, amended or discharged except by a written document signed by me and a duly authorized Company representative. This Release binds my heirs, administrators, representatives, executors, successors, and assigns, and will inure to the benefit of all Released Parties and their respective heirs, administrators, representatives, executors, successors, and assigns. The invalidity or unenforceability of any provision of this Release shall not affect the validity or enforceability of any other provision of this Release, which shall remain in full force and effect. A waiver of any conditions or provisions of this Release in a given instance shall not be deemed a waiver of such conditions or provisions at any other time. If any of the provisions, terms or clauses of this Release are declared illegal, unenforceable or ineffective in a legal forum, those provisions, terms and clauses shall be deemed severable, such that all other provisions, terms and clauses of this Release shall remain valid and binding upon both parties. If any of the provisions, terms or clauses of this Release are found by a court to be overly broad, those provisions, terms and clauses shall be enforceable (and modified and enforced) to the broadest extent permissible under the law. The validity, interpretation, construction, and performance of this Release shall be governed by the internal laws of the State of Connecticut (excluding any that mandate the use of another jurisdiction's laws)

5. All payments to me under this Release shall be net of applicable withholdings and deductions.

6. The Company advised me to take this Release home, read it, and carefully consider all of its terms before signing it. The Company gave me at least 21 days in which to consider this Release, and I waive any right I might have to additional time beyond this consideration period within which to consider this Release. The Company advised me to discuss this Release with my own attorney (at my own expense) during this period if I wished to do so. I understand that I may revoke my acceptance of this Release within seven (7) days after I sign it ("Revocation Period"). I understand that if I revoke my acceptance of this Release, I will not be entitled to any payments or benefits hereunder or otherwise in connection with the termination of my employment with the Company, except as required by law in the absence of the Agreement and this Release. I have carefully read this Release, fully understand what it means, and am entering into it voluntarily.

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Print Name

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Date

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Signature



# EMPLOYEE STOCK PURCHASE PLAN

(Amended and Current as of April 8, 2010)

## ARTICLE I - *General*

- 1.1 The purpose of Photronics, Inc. Employee Stock Purchase Plan is to provide eligible employees of the Company and its designated subsidiaries (if any) with an opportunity to acquire a proprietary interest in the Company by the purchase of shares of the Common Stock of the Company directly from the Company through payroll deductions. It is felt that employee participation in the ownership of the Company will be to the mutual benefit of both the employees and the Company.
- 1.2 The Plan is intended to qualify as an "employee stock purchase plan" within the meaning of Section 423 of the Internal Revenue Code of 1986, as amended (the "Code"). The provisions of the Plan shall, accordingly, be construed so as to extend and/or limit eligibility and participation in a manner consistent, and so as to otherwise comply, with the requirements of the Code.
- 1.3 Eligibility and participation in the Plan shall give any Employee only such rights as are set forth in the Plan and any amendments hereto and shall in no way affect or in any manner limit the Company's right to discharge the Employee, which right is expressly reserved by the Company, or impair the authority of the Plan Committee to limit the Employee's rights, claims or causes, as provided in the Plan.

## ARTICLE II - *Definitions*

- 2.1 The following words and phrases, when used in the Plan, shall have the following respective meanings, unless the context clearly indicates otherwise:

**"Authorized Leave of Absence"**

Any leave of absence authorized under the Company's standard personnel practices, provided that all persons under similar circumstances must be treated equally in the granting of such Authorized Leave of Absence and provided further that the person returns to the employ of the Company upon the expiration of an Authorized Leave of Absence.

**"Board of Directors"**

The Board of Directors of Photronics, Inc.

**"Code"**

The Internal Revenue Code of 1986, as amended from time to time, and applicable Treasury Department regulations issued thereunder.

**"Common Stock"**

The Common Stock, par value \$0.01 per share, of the Company, or the securities adjusted or substituted therefor pursuant to Article XIV.

**"Company"**

Photronics, Inc., a Connecticut corporation, or its successor or successors or any present or future subsidiary of Photronics, Inc., which may be designated to participate in the Plan by the Board of Directors.

**"Compensation"**

The Compensation of an Eligible Employee shall be determined in accordance with procedures approved by the Plan Committee or the Board of Directors. In the absence of the adoption of specific procedures, Compensation of an Eligible Employee shall be the annualized salary or wages of such Employee based on such Employee's current rate of pay and work schedule, but excluding any discretionary overtime, sick pay, vacation pay or other benefits.

**"Disability"**

Disability shall have the same meaning set forth in Section 22(e)(3) of the Code or any successor provision thereto. At present, a disability is defined as a physical or mental impairment or incapacity which, in the opinion of a physician selected by the Plan Committee, can be expected to result in death or has lasted or can be expected to last for a continuous period of at least twelve (12) months and renders the Participant unable to engage in any substantial, gainful activity.

**"Effective Date of the Plan"**

The date on which the Plan shall have become effective pursuant to Article XVII, provided, however, that if the Plan shall not be approved by the stockholders of the Company as provided in Article XVII, the Plan and all rights granted hereunder shall be, and be deemed to have been, null and void.

**"Eligible Employee"**

An Employee who is eligible to participate in the Plan in accordance with provisions of Articles IV and V.

**"Employee"**

Any person who, on an Offering Date, is a common law employee of the Company and whose customary employment is for more than twenty (20) hours per week and for more than five (5) months per calendar year, other than any highly compensated employees (within the meaning of Section 414[q] of the Code or any successor provision thereto) of the Company who are excluded from participation hereunder by action of the Board of Directors. A person who is or has been on an Authorized Leave of Absence, and who in the absence of such Authorized Leave of Absence would have been classified as an Employee, shall in the discretion of the Plan Committee be considered to be an Employee, except to the extent that such determination is inconsistent with Section 423 of the Code. Such determination by the Plan Committee shall be final and conclusive.

**"Offering"**

An Offering in accordance with the provisions of Article V.

**"Offering Date"**

The date of an Offering as established by the Plan Committee pursuant to Section 5.1 hereof.

**"Participant"**

An Eligible Employee who subscribes for Shares pursuant to Article VI.

**"Plan"**

The Photronics, Inc. Employee Stock Purchase Plan set forth herein, as amended from time to time in accordance with the provisions of Article XV.

**"Plan Committee"**

The committee provided for in Article XII to administer the Plan.

**"Purchase Date"**

A Purchase Date as provided in Sections 8.1 or 10.3, as appropriate.

**"Shares"**

Shares of Common Stock offered under the Plan.

The masculine gender, whenever used in the Plan, shall be deemed to include the feminine gender, and whenever the plural is used it shall include the singular, if the context so requires.

***ARTICLE III - Shares Subject to the Plan***

- 3.1 Subject to the provisions of Article XIV hereof, the aggregate number of shares of Common Stock which may be issued under the Plan shall not exceed 1,200,000. The aggregate number of such shares which may be issued with respect to any Offering shall be determined by the Plan Committee with respect to such Offering. Such shares may be authorized but unissued shares of Common Stock or issued shares of Common Stock which are held by the Company. Any shares subscribed for under the Plan and not purchased as a result of the cancellation in whole or in part of such subscription shall (unless the Plan shall have terminated) be again available for issuance under the Plan.

***ARTICLE IV - Eligibility***

- 4.1 Each Employee who has been continuously employed by the Company for the one complete calendar month (or such longer period as may be determined by the Plan Committee) ending immediately prior to an Offering Date shall be eligible to participate in the Offering under the Plan made on such Offering Date.
- 4.2 Notwithstanding the provisions of Section 4.1, no Employee shall be offered Shares if, immediately after he would subscribe for such Shares, such Employee would own capital stock (including shares of Common Stock which may be purchased under such subscription and under any other outstanding subscriptions under the Plan or options to purchase shares of Common Stock of the Company held by such Employee, as computed in accordance with Section 423[b][3] of the Code or any successor provision thereto) possessing 5% or more of the total combined voting power or value of all classes of stock of the Company. For purposes of determining the stock ownership of any Employee, the provisions of Section 424[d] of the Code shall apply.

## ARTICLE V - *Offering Under the Plan*

- 5.1 Offerings under the Plan shall be made on such Offering Dates as shall be determined by the Plan Committee. Notwithstanding anything to the contrary, no Offering shall be made on any date prior to the date that a required registration statement with respect to such Offering filed under the Securities Act of 1933, as amended, has become effective. Nothing contained herein shall be deemed to require that an Offering be made in any year.
- 5.2 [a] Subject to the limitations set forth in Sections 5.2[b] and 6.3, and to the other terms and conditions of the Plan, in each offering under the Plan, each Eligible Employee on an Offering Date shall be offered the right during the Subscription Period as provided in Section 6.2, to subscribe to purchase such number of Shares as the percentage designated by the Plan Committee for such offering (not to exceed 5%) of his Compensation would buy, at a price equal to the product of (i) the fair market value of a Share on the Offering Date, multiplied by (ii) the Purchase Price percentage utilized under Section 5.3 hereof.
- [b] Notwithstanding anything to the contrary contained in Sub-Section [a] of this Section 5.2, no Eligible Employee shall be eligible to subscribe for Shares in an Offering if, immediately after he would subscribe for such Shares, such subscription would permit his rights to purchase shares of Common Stock under all employee stock purchase plans of the Company to accrue at a rate which exceeds \$25,000 (or such other maximum amounts as may be prescribed from time to time under the Code) of the fair market value of such shares (determined as of the Offering Date for such Offering) for each calendar year in which such subscription would be outstanding at any time. For purposes of this limitation the provisions of Section 423[b][8] of the Code shall be applicable.
- 5.3 The Purchase Price per share subscribed for all Shares in a particular Offering shall be an amount equal to such percentages, not greater than 100% nor less than 85%, as shall be determined by the Plan Committee on or prior to the Offering Date, of the fair market value of a share of Common Stock (determined in accordance with the provisions of Article XIII) on one of the following dates with respect to such Offering, with such date to be determined by the Plan Committee on or prior to the Offering Date: (i) the Offering Date, (ii) the Purchase Date, or (iii) the Offering Date or the Purchase Date (whichever would result in a lower Purchase Price for the Common Stock).
- 5.4 In order to participate in any Offering, an Eligible Employee entitled to subscribe for Shares in such Offering shall comply with the subscription procedures set forth in Article VI.



## **ARTICLE VI - *Subscriptions for Shares***

- 6.1 As soon as practicable after an Offering Date, the Company shall furnish to each Eligible Employee a Subscription Agreement setting forth the maximum number of Shares to which such Eligible Employee may subscribe in such Offering, the fair market value per share of Common Stock on the Offering Date, the Purchase Price for Shares in such Offering and such other terms and conditions consistent with the Plan as shall be determined by the Plan Committee.
- 6.2 Within fifteen (15) days after receipt of such Subscription Agreement, an Eligible Employee desiring to participate in the Offering shall notify the Plan Committee of the number of Shares for which he desires to subscribe. Such notification shall be effected by the Eligible Employee's completing, executing and returning to the Secretary of the Company the Subscription Agreement. All such subscriptions shall be deemed to have been made as of the Offering Date. No subscription shall be accepted from any person who is not an Eligible Employee on the date his subscription is received by the Company.
- 6.3 The minimum number of Shares for which an Eligible Employee will be permitted to subscribe in any Offering is ten (10) (or the number of Shares offered to him if fewer than ten). If at any time the Shares available for an Offering are oversubscribed, the Number of Shares for which each Eligible Employee is entitled to subscribe pursuant to Section 5.2 shall be reduced, pro rata, to such lower number as may be necessary to eliminate such over-subscription.
- 6.4 If an Eligible Employee fails to subscribe to the Shares within the period and in the manner prescribed in Section 6.2, he shall waive all rights to purchase Shares in that Offering.

## **ARTICLE VII - *Payment for Shares***

- 7.1 The aggregate Purchase Price for the Shares for which a Participant subscribes in any Offering in accordance with the provisions of Article VI of the Plan shall be paid by means of payroll deductions.
- 7.2 [a] The aggregate Purchase Price for Shares shall be paid by payroll deductions in equal amounts over a period of 24 months (or such shorter period as shall be determined by the Plan Committee in accordance with the Plan) from the Offering Date. The period over which such payroll deductions are to be made in hereinafter referred to as the "Payment Period".
- [b] Such payroll deductions with respect to an Offering shall commence as soon as practicable after the receipt of the Company of the executed Subscription Agreement authorizing such payroll deductions, and shall cease upon the earlier of the termination of the Payment Period or payment in full of the Purchase Price for such Shares. A Participant may cancel his subscription to the extent provided for in Article X, but no other change in terms of his Subscription Agreement may be made during the Payment Period and, in particular, in no event may a Participant change the amount of his payroll deductions under such Subscription Agreement. All payroll deductions withheld from a Participant under a Subscription Agreement shall be credited to his account under the Plan. In the event that payroll deductions are simultaneously being made with respect to more than one Subscription Agreement, the aggregate amount of such payroll deductions at any payday shall be credited first toward the payment for Shares subscribed for in the earliest Offering. A Participant may not make any separate cash payment into his account, provided, however, that a Participant who has been deemed to be in the employ of the Company while on an Authorized Leave of Absence without pay during the Payment Period, may upon his return to the actual employ of the Company, make a cash payment into his account in an amount not exceeding the aggregate of the payroll deductions which would have been made during such Authorized Leave of Absence.

[c] All funds representing payroll deductions for the accounts of Participants will, except as provided in Section 7.3, be paid into the general funds of the Company. No interest will be paid or accrued under any circumstances on any funds withheld by the Company as payroll deductions pursuant to this Section 7.2 or on any other funds paid to the Company for purchases of Shares under the Plan.

7.3 Notwithstanding anything in this Article VII to the contrary, with respect to any Offering which is made prior to the approval of the Plan by the stockholders of the Company, all payroll deductions withheld for the accounts of Participants shall, until the Plan is approved by the stockholders, be held by the Company in a special escrow account for the benefit of such Participants. No interest will be paid or accrued under any circumstances on such funds. No Shares will be issued to such Participants until after approval of the Plan by the stockholders. In the event that the Plan is not approved by the stockholders within the period specified in Article XVII, all such funds will thereupon be promptly refunded to the respective Participants.

7.4 Failure to pay for subscribed Shares as provided in this Article VII shall constitute the cancellation of such subscription to the extent that any such Shares shall not have been so paid for.

### **ARTICLE VIII - *Issuance of Shares***

8.1 At the end of the Payment Period for an Offering, (each of which dates is referred to as a "Purchase Date"), the balance of all amounts then held in the account of a Participant representing payroll deductions pursuant to a Subscription Agreement shall be applied to the purchase by the Participant from the Company of the number of Shares equal to the amount of such balance divided by the Purchase Price per share for such Shares applicable on such Purchase Date up to the number of Shares provided for in the respective Subscription Agreement. Any amount remaining in the Participant's account in excess of the sum required to purchase whole Shares on a Purchase Date shall be promptly refunded to the Participant. As soon as practicable after a Purchase Date, the Company will issue and deliver to the Participant a certificate representing the Shares purchased by him from the Company on such Purchase Date. No fractional shares will be issued at any time.

8.2 A Participant who disposes (whether by sale, exchange, gift or otherwise) of any of the Shares acquired by him pursuant to the Plan within two (2) years after the Offering Date for such Shares or within one (1) year after the issuance of Shares to him shall notify the Company in writing of such disposition within thirty (30) days after such disposition.

## **ARTICLE IX - Rights of Stockholders**

- 9.1 A Participant shall not have any rights to dividends or any other rights as a stockholder of the Company with respect to any Shares until such Shares shall have been issued to him as reflected by the books and records maintained by the Company's transfer agent relating to stockholders of the Company.

## **ARTICLE X - Voluntary Withdrawal/Termination of Employment**

- 10.1 A Participant may discontinue his payroll deductions under a Subscription Agreement at any time by giving written notice thereof to the Plan Committee, effective for all payroll periods commencing five (5) days after receipt of such notice by the Plan Committee. The balance in the account of such Participant following such discontinuance shall be promptly refunded to the Participant. Withdrawal from an Offering pursuant to this Section 10.1 shall not affect an Eligible Employee's eligibility to participate in any other Offering under the Plan.
- 10.2 If the Participant's employment with the Company is terminated for any reason other than death while still an Employee, such Participant's rights to purchase Shares under any Subscription Agreement shall immediately terminate. Any balance remaining in his account as of the date of such termination of employment shall be promptly refunded to the Participant.
- 10.3 In the event of the death of an Employee who was a Participant prior to the purchase of the Shares for which he subscribed pursuant to Article VI hereof, the person or persons who acquired by laws of descent and distribution (his "Estate") his rights to purchase Shares under his Subscription Agreement(s), shall have the right within ninety (90) days after the death of the Participant (but in no event later than the termination of the Payment Period) to purchase from the Company that number of Shares subscribed for and not issued to the Participant prior to his death which the balance in the Participant's payroll deduction account is sufficient to purchase. The failure of the person or persons so acquiring his rights to so give notice of intention to purchase shall constitute a forfeiture of all further rights of the Participant or other persons to purchase such Shares and in such event, the balance in the Participant's payroll deduction account will be refunded, without interest. If the Participant dies more than fifty (50) days prior to the termination of the Payment Period and his Estate elects to purchase the Shares subscribed for, the Purchase Price for his Shares shall be the percentage, designated pursuant to Section 5.3, of the fair market value on the Offering Date, irrespective of the Purchase Price for other Participants.

## **ARTICLE XI - Non-Transferability of Subscription Rights**

- 11.1 During the lifetime of a Participant, the Shares for which he subscribes may be purchased only by him. No Subscription Agreement of a Participant and no right under or interest in the Plan or any such Subscription Agreement (hereinafter collectively referred to as "Subscription Rights") may be assigned, transferred, pledged, hypothecated or disposed of in any way (whether by operation of law or otherwise), except by the Participant's will or by the applicable laws of descent and distribution, or may be subject to execution, attachment or similar process. Any assignment, transfer, pledge, hypothecation or other disposition of Subscription Rights, or any levy of execution, attachment or other process attempted upon Subscription Rights, shall be null and void and without effect, and in any such event all Subscription Rights shall, in the sole discretion of the Plan Committee (exercised by written notice to the Participant or to the person then entitled to purchase the Shares under the provisions of Sections 10.3 hereof), terminate as of the occurrence of any such event.

## **ARTICLE XII - Administration of the Plan**

- 12.1 The Plan shall be administered by a Plan Committee which shall consist of two (2) or more members of the Board of Directors, none of whom shall be eligible to participate in the Plan. The members of the Plan Committee shall be appointed, and may be removed, by the Board of Directors. The Board of Directors shall have the power to remove and substitute for members of the Plan Committee and to fill any vacancy which may occur in the Plan Committee.
- 12.2 Unless otherwise determined by the Board of Directors, the members of the Plan Committee shall serve without additional compensation for their services. All expenses in connection with the administration of the Plan, including, but not limited to, clerical, legal and accounting fees, and other costs of administration, shall be paid by the Company.
- 12.3 The Chairman of the Plan Committee shall be designated by the Board of Directors. The Plan Committee shall select a Secretary who need not be a member of the Plan Committee. The Secretary, or in his absence, any member of the Plan Committee designated by the Chairman, shall keep the minutes of the proceedings of the Plan Committee and all data, records and documents relating to the administration of the Plan by the Plan Committee.
- 12.4 A quorum of the Plan Committee shall be such number as the Committee shall from time to time determine, but shall not be less than a majority of the entire Plan Committee. The acts of a majority of the members of the Plan Committee present at any meeting at which a quorum is present shall be the act of the Plan Committee. Members of the Plan Committee may participate in a meeting by means of telephone conference or similar communications procedure pursuant to which all persons participating in the meeting can hear each other. The Plan Committee may take action without a meeting if such action is evidenced by a writing signed by at least a majority of the entire Plan Committee.
- 12.5 The Plan Committee may, by an instrument in writing, delegate to one or more of its members or to an officer or officers of the Company any of its powers and its authority under the Plan, including the execution and delivery on its behalf of instruments, instructions and other documents.
- 12.6 It shall be the sole and exclusive duty and authority of the Plan Committee to interpret and construe the provisions of the Plan, to decide any disputes which may arise with regard to the status, eligibility and rights of Employees under the terms of the Plan, and any other persons claiming an interest under the terms of the Plan, and, in general, to direct the administration of the Plan.
- 12.7 The Plan Committee may adopt, and from time to time amend, such rules and regulations consistent with the purposes and provisions of the Plan, as it deems necessary or advisable to administer and effectuate the Plan.

- 12.8 The Plan Committee may shorten, lengthen (but not beyond thirty (30) days) or waive the time required by the Plan for the filing of any notice or other form under the Plan.
- 12.9 The discretionary powers granted hereunder to the Plan Committee shall in no event be exercised in any manner that will discriminate against individual employees or a class of employees or discriminate in favor of employees who are shareholders, officers, supervisors or highly compensated employees of the Company.

### ***ARTICLE XIII - Valuation of Shares of Common Stock***

- 13.1 For purposes of the Plan, the "fair market value" of a share of Common Stock as of any date shall be determined as follows:
- [a] If the Common Stock is then listed on a national securities exchange, the "fair market value" shall be the closing price of a share of Common Stock on such exchange on such date, or, if there has been no sale of shares of Common Stock on that date, the closing price of a share of Common Stock on such exchange on the last preceding business day on which shares of Common Stock were traded.
- [b] If the Common Stock is then listed on the National Association of Securities Dealers Automatic Quotation System National Market System, the "fair market value" shall be the average of the high and low sales prices of a share of Common Stock on that date, or if there has been no sale of shares of Common Stock on that date, the average of the high and low sales prices of Common Stock on the last preceding business day on which shares of Common Stock were traded.

### ***ARTICLE XIV - Adjustments in Certain Events***

- 14.1 If (i) the Company shall at any time be involved in a transaction to which sub-section [a] of Section 424 of the Code is applicable, (ii) the Company shall declare a dividend payable in, or shall sub-divide or combine, its Common Stock, or (iii) any other event shall occur which in the judgment of the Board of Directors necessitates action by way of adjusting the terms of the outstanding Subscription Agreements, the Board of Directors shall take any such action as in its judgment shall be appropriate to preserve Participant rights substantially proportionate to the rights existing prior to such event. To the extent that such action shall include an increase or decrease in the number of shares of Common Stock subject to outstanding Subscription Agreements, the aggregate number of shares available under Article III hereof for issuance under the Plan pursuant to outstanding Subscription Agreements and Subscription Agreements which may be entered into, and the aggregate number of shares available for issuance in any Offering and the number which may be subscribed for, shall be proportionately increased or decreased, as the case may be. No action shall be taken by the Board of Directors under the provisions of this Article XIV which, in its judgment, would constitute a modification, extension or renewal of the Subscription Agreement (within the meaning of Section 424[h] of the Code), or would prevent the Plan from qualifying as an "employee stock purchase plan" (within the meaning of Section 423 of the Code). The determination of the Board of Directors with respect to any matter referred to in this Article XIV shall be conclusive and binding upon each Participant.

## **ARTICLE XV - Termination and Amendment of the Plan**

- 15.1 The Board of Directors may, without further approval by the stockholders of the Company, at any time terminate or amend the Plan without notice, or make such modifications of the Plan as it shall deem advisable; provided that the Board of Directors may not, without prior approval by the holders of a majority of the outstanding shares of Common Stock of the Company, amend or modify the Plan so as to (i) increase the maximum number of shares of Common Stock which may be issued under the Plan (except as contemplated in Article XIV hereof), (ii) extend the term during which Offerings may be made under the Plan or (iii) increase the maximum number of Shares which an Eligible Employee is entitled to purchase (except as contemplated in Article XIV hereof); and provided further that the Board of Directors may not amend or modify the Plan in any manner which would prevent the Plan from qualifying as an "employee stock purchase plan" (within the meaning of Section 423 of the Code). No termination, amendment or modification of the Plan may, without the consent of a Participant, adversely affect the rights of such Participant under an outstanding Subscription Agreement.

## **ARTICLE XVI - Miscellaneous**

- 16.1 Unless otherwise expressly provided in the Plan, all notices or other communications by a Participant to the Company under or in connection with the Plan shall be deemed to have been duly given when received by the Secretary of the Company or when received in the form specified by the Company at the location and by the persons, designated by the Company for the receipt thereof.
- 16.2 Notwithstanding anything hereunder to the contrary, the offer, sale and delivery by the Company of Shares under the Plan to any Eligible Employee is subject to compliance with all applicable securities regulation and other federal and state laws. The terms of this Plan shall be construed under the laws of the State of Connecticut.

## **ARTICLE XVII - Effective Date**

- 17.1 The Plan shall become effective at such time as the Plan has been adopted by the Board of Directors or such later date as shall be designated by the Board of Directors upon its adoption of the Plan; provided, however, that the Plan and all Subscription Agreements entered into thereunder shall be, and be deemed to have been, null and void if the Plan is not approved by the holders of a majority of the outstanding shares of Common Stock of the Company within twelve (12) months after the date on which the Plan is adopted by the Board of Directors.

**Photronics, Inc.**  
**2007 Long Term Equity Incentive Plan**  
(as Amended on April 8, 2010)

**1. Purposes of the Plan**

The purposes of the Plan are to (a) promote the long-term success of the Company and its Subsidiaries and to increase stockholder value by providing Eligible Individuals with incentives to contribute to the long-term growth and profitability of the Company by offering them an opportunity to obtain a proprietary interest in the Company through the grant of equity-based awards and (b) assist the Company in attracting, retaining and motivating highly qualified individuals who are in a position to make significant contributions to the Company and its Subsidiaries.

Upon the Effective Date, no further Awards will be granted under the Prior Plans.

**2. Definitions and Rules of Construction**

(a) Definitions. For purposes of the Plan, the following capitalized words shall have the meanings set forth below:

“**Award**” means an Option, Restricted Stock, Restricted Stock Unit, Stock Appreciation Right, Performance Stock, Performance Unit or Other Award granted by the Committee pursuant to the terms of the Plan.

“**Award Document**” means an agreement, certificate or other type or form of document or documentation approved by the Committee that sets forth the terms and conditions of an Award. An Award Document may be in written, electronic or other media, may be limited to a notation on the books and records of the Company and, unless the Committee requires otherwise, need not be signed by a representative of the Company or a Participant.

“**Beneficial Owner**” and “**Beneficially Owned**” have the meaning set forth in Rule 13d-3 under the Exchange Act.

“**Board**” means the Board of Directors of the Company, as constituted from time to time.

“**Change of Control**” means:

(i) Any Person becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing thirty-five percent (35%) or more of the combined voting power of the Company’s then outstanding securities; or

(ii) The following individuals cease for any reason to constitute a majority of the number of directors then serving: individuals who, on the Effective Date, constitute the Board and any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including, but not limited to, a consent solicitation, relating to the election of directors of the Company) whose appointment or election by the Board or nomination for election by the Company’s stockholders was approved or recommended by a vote of at least a majority of the directors then still in office who either were directors on the Effective Date or whose appointment, election or nomination for election was previously so approved or recommended; or

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(iii) There is consummated a merger or consolidation of the Company or any Subsidiary with any other corporation, other than (A) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof), in combination with the ownership of any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary of the Company, more than fifty percent (50%) of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (B) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing thirty-five percent (35%) or more of the combined voting power of the Company's then outstanding securities; or

(iv) The stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the company of all or substantially all of the Company's assets, other than a sale or disposition by the Company of all or substantially all of the Company's assets to an entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are owned by stockholders of the Company in substantially the same proportions as their ownership of the Company immediately prior to such sale.

Notwithstanding the foregoing, with respect to an Award that is subject to Section 409A of the Code and the payment or settlement of the Award will accelerate upon a Change of Control, no event set forth herein will constitute a Change of Control for purposes of the Plan or any Award Document unless such event also constitutes a "change in ownership," "change in effective control," or "change in the ownership of a substantial portion of the Company's assets" as defined under Section 409A of the Code.

"**Code**" means the Internal Revenue Code of 1986, as amended, and the applicable rulings and regulations promulgated thereunder.

"**Committee**" means the Compensation Committee of the Board, any successor committee thereto or any other committee appointed from time to time by the Board to administer the Plan, which committee shall meet the requirements of Section 162(m) of the Code, Section 16(b) of the Exchange Act and the applicable rules of the NASDAQ; *provided, however*, that, if any Committee member is found not to have met the qualification requirements of Section 162(m) of the Code and Section 16(b) of the Exchange Act, any actions taken or Awards granted by the Committee shall not be invalidated by such failure to so qualify.

"**Common Stock**" means the common stock of the Company, par value \$0.01 per share, or such other class of share or other securities as may be applicable under Section 13 of the Plan.

"**Company**" means Photronics, Inc., a Connecticut corporation, or any successor to all or substantially all of the Company's business that adopts the Plan.

"**EBITDA**" means earnings before interest, taxes, depreciation and amortization.



**“Effective Date”** means the date on which the Plan is adopted by the Board and approved by the Shareholders of the Company.

**“Eligible Individuals”** means the individuals described in Section 4(a) of the Plan who are eligible for Awards under the Plan.

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

**“Fair Market Value”** means, with respect to a share of Common Stock, the fair market value on the date of valuation of such Award as determined by the Compensation Committee; provided, however, that with respect to an incentive stock option issued to a 10% or more shareholder, Fair Market Value shall mean 110% of the fair market value or such other percentage as may be permitted by the Code and regulations promulgated thereunder.

**“Incentive Stock Option”** means an Option that is intended to comply with the requirements of Section 422 of the Code or any successor provision thereto.

**“NASDAQ”** means the NASDAQ Stock Market, Inc.

**“Non-Employee Director”** means any member of the Board who is not an officer or employee of the Company or any Subsidiary.

**“Nonqualified Stock Option”** means an Option that is not intended to comply with the requirements of Section 422 of the Code or any successor provision thereto.

**“Option”** means an Incentive Stock Option or Nonqualified Stock Option granted pursuant to Section 7 of the Plan.

**“Other Award”** means any form of Award other than an Option, Restricted Stock, Restricted Stock Unit or Stock Appreciation Right granted pursuant to Section 11 of the Plan.

**“Participant”** means an Eligible Individual who has been granted an Award under the Plan.

**“Performance Period”** means the period established by the Committee and set forth in the applicable Award Document over which Performance Targets are measured.

**“Performance Stock”** means a Target Number of Shares granted pursuant to Section 10(a) of the Plan.

**“Performance Target”** means the performance measures established by the Committee, from among the performance criteria provided in Section 6(g), and set forth in the applicable Award Document.

**“Performance Unit”** means a right to receive a Target Number of Shares or cash in the future granted pursuant to Section 10(b) of the Plan.

**“Permitted Transferees”** means (i) a Participant’s family member, (ii) one or more trusts established in whole or in part for the benefit of one or more of such family members, (iii) one or more entities which are beneficially owned in whole or in part by one or more such family members, or (iv) a charitable or not-for-profit organization.

**"Person"** means any person, entity or "group" within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, except that such term shall not include (i) the Company or any of its Subsidiaries, (ii) a trustee or other fiduciary holding securities under an employee benefit plan of the Company, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) a corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company, or (v) a person or group as used in Rule 13d-1(b) under the Exchange Act.

**"Plan"** means this 2007 Long Term Equity Incentive Plan, as amended or restated from time to time.

**"Plan Limit"** means the maximum aggregate number of Shares that may be issued for all purposes under the Plan as set forth in Section 5(a) of the Plan.

**"Prior Plan"** means the 1996 Stock Option Plan, the 1998 Stock Option Plan, and the 2000 Stock Plan, as amended from time to time.

**"Restricted Stock"** means one or more Shares granted or sold pursuant to Section 8(a) of the Plan.

**"Restricted Stock Unit"** means a right to receive one or more Shares (or cash, if applicable) in the future granted pursuant to Section 8(b) of the Plan.

**"Shares"** means shares of Common Stock, as may be adjusted pursuant to Section 13(b).

**"Stock Appreciation Right"** means a right to receive all or some portion of the appreciation on Shares granted pursuant to Section 9 of the Plan.

**"Subsidiary"** means (i) a corporation or other entity with respect to which the Company, directly or indirectly, has the power, whether through the ownership of voting securities, by contract or otherwise, to elect at least a majority of the members of such corporation's board of directors or analogous governing body, or (ii) any other corporation or other entity in which the Company, directly or indirectly, has an equity or similar interest and which the Committee designates as a Subsidiary for purposes of the Plan. For purposes of determining eligibility for the grant of Incentive Stock Options under the Plan, the term "Subsidiary" shall be defined in the manner required by Section 424(f) of the Code.

**"Substitute Award"** means any Award granted upon assumption of, or in substitution or exchange for, outstanding employee equity awards previously granted by a company or other entity acquired by the Company or with which the Company combines pursuant to the terms of an equity compensation plan that was approved by the stockholders of such company or other entity.

**"Target Number"** means the target number of Shares or cash value established by the Committee and set forth in the applicable Award Document.

(b) Rules of Construction. The masculine pronoun shall be deemed to include the feminine pronoun, and the singular form of a word shall be deemed to include the plural form, unless the context requires otherwise. Unless the text indicates otherwise, references to sections are to sections of the Plan.

### 3. Administration

(a) Committee. The Plan shall be administered by the Committee, which shall have full power and authority, subject to the express provisions hereof, to:

(i) select the Participants from the Eligible Individuals;

(ii) grant Awards in accordance with the Plan;

(iii) determine the number of Shares subject to each Award or the cash amount payable in connection with an Award;

(iv) determine the terms and conditions of each Award, including, without limitation, those related to term, permissible methods of exercise, vesting, cancellation, payment, settlement, exercisability, Performance Periods, Performance Targets, and the effect, if any, of a Participant's termination of employment with the Company or any of its Subsidiaries or, subject to Section 6(d), a Change of Control of the Company;

(v) subject to Sections 16 and 17(e) of the Plan, amend the terms and conditions of an Award after the granting thereof;

(vi) specify and approve the provisions of the Award Documents delivered to Participants in connection with their Awards;

(vii) construe and interpret any Award Document delivered under the Plan;

(viii) make factual determinations in connection with the administration or interpretation of the Plan;

(ix) adopt, prescribe, amend, waive and rescind administrative regulations, rules and procedures relating to the Plan;

(x) employ such legal counsel, independent auditors and consultants as it deems desirable for the administration of the Plan and to rely upon any advice, opinion or computation received therefrom;

(xi) vary the terms of Awards to take account of tax and securities law and other regulatory requirements or to procure favorable tax treatment for Participants;

(xii) correct any defects, supply any omission or reconcile any inconsistency in any Award Document or the Plan; and

(xiii) make all other determinations and take any other action desirable or necessary to interpret, construe or implement properly the provisions of the Plan or any Award Document.

(b) Plan Construction and Interpretation. The Committee shall have full power and authority, subject to the express provisions hereof, to construe and interpret the Plan.

(c) Determinations of Committee Final and Binding. All determinations by the Committee in carrying out and administering the Plan and in construing and interpreting the Plan shall be made in the Committee's sole discretion and shall be final, binding and conclusive for all purposes and upon all persons interested herein.

(d) Delegation of Authority. To the extent not prohibited by applicable laws, rules and regulations, the Committee may, from time to time, delegate some or all of its authority under the Plan to a subcommittee or subcommittees thereof or other persons or groups of persons as it deems necessary, appropriate or advisable under such conditions or limitations as it may set at the time of such delegation or thereafter; *provided, however*, that the Committee may not delegate its authority (i) to make Awards to employees (A) who are subject on the date of the Award to the reporting rules under Section 16(a) of the Exchange Act, (B) whose compensation for such fiscal year may be subject to the limit on deductible compensation pursuant to Section 162(m) of the Code or (C) who are officers of the Company who are delegated authority by the Committee hereunder, or (ii) pursuant to Section 16 of the Plan. For purposes of the Plan, reference to the Committee shall be deemed to refer to any subcommittee, subcommittees, or other persons or groups of persons to whom the Committee delegates authority pursuant to this Section 3(d).

(e) Liability of Committee. Subject to applicable laws, rules and regulations: (i) no member of the Board or Committee (or its delegates) shall be liable for any good faith action or determination made in connection with the operation, administration or interpretation of the Plan and (ii) the members of the Board or the Committee (and its delegates) shall be entitled to indemnification and reimbursement in the manner provided in the Company's Certificate of Incorporation as it may be amended from time to time. In the performance of its responsibilities with respect to the Plan, the Committee shall be entitled to rely upon information and/or advice furnished by the Company's officers or employees, the Company's accountants, the Company's counsel and any other party the Committee deems necessary, and no member of the Committee shall be liable for any action taken or not taken in reliance upon any such information and/or advice.

(f) Action by the Board. Anything in the Plan to the contrary notwithstanding, subject to applicable laws, rules and regulations, any authority or responsibility that, under the terms of the Plan, may be exercised by the Committee may alternatively be exercised by the Board.

#### **4. Eligibility**

(a) Eligible Individuals. Awards may be granted to officers, employees, directors, Non-Employee Directors, consultants, advisors and independent contractors of the Company or any of its Subsidiaries or joint ventures, partnerships or business organizations in which the Company or its Subsidiaries have an equity interest; *provided, however*, that only employees of the Company or Subsidiary may be granted Incentive Stock Options. The Committee shall have the authority to select the persons to whom Awards may be granted and to determine the type, number and terms of Awards to be granted to each such Participant. Under the Plan, references to "employment" or "employed" include the engagement of Participants who are consultants, advisors and independent contractors of the Company or its Subsidiaries and the service of Participants who are Non-Employee Directors, except for purposes of determining eligibility to be granted Incentive Stock Options.

(b) Grants to Participants. The Committee shall have no obligation to grant any Eligible Individual an Award or to designate an Eligible Individual as a Participant solely by reason of such Eligible Individual having received a prior Award or having been previously designated as a Participant. The Committee may grant more than one Award to a Participant and may designate an Eligible Individual as a Participant for overlapping periods of time.

## 5. Shares Subject to the Plan

(a) **Plan Limit.** Subject to adjustment in accordance with Section 13 of the Plan, the maximum aggregate number of Shares that may be issued for all purposes under the Plan shall be six million (6,000,000) plus any Shares that are available for issuance under the Prior Plans or that become available for issuance upon cancellation or expiration of awards granted under the Prior Plans without having been exercised or settled. Shares to be issued under the Plan may be authorized and unissued shares, issued shares that have been reacquired by the Company (in the open-market or in private transactions) and that are being held in treasury, or a combination thereof. All of the Shares subject to the Plan Limit may be issued pursuant to Incentive Stock Options.

(b) **Rules Applicable to Determining Shares Available for Issuance.** The number of Shares remaining available for issuance will be reduced by the number of Shares subject to outstanding Awards and, for Awards that are not denominated by Shares, by the number of Shares actually delivered upon settlement or payment of the Award. For purposes of determining the number of Shares that remain available for issuance under the Plan, (i) the number of Shares that are tendered by a Participant or withheld by the Company to pay the exercise price of an Award or to satisfy the Participant's tax withholding obligations in connection with the exercise or settlement of an Award and (ii) all of the Shares covered by a stock-settled Stock Appreciation Right to the extent exercised, will not be added back to the Plan Limit. In addition, for purposes of determining the number of Shares that remain available for issuance under the Plan, the number of Shares corresponding to Awards under the Plan that are forfeited or cancelled or otherwise expire for any reason without having been exercised or settled or that is settled through issuance of consideration other than Shares (including, without limitation, cash) shall be added back to the Plan Limit and again be available for the grant of Awards; *provided, however*, that this provision shall not be applicable with respect to (i) the cancellation of a Stock Appreciation Right granted in tandem with an Option upon the exercise of the Option or (ii) the cancellation of an Option granted in tandem with a Stock Appreciation Right upon the exercise of the Stock Appreciation.

(c) **Special Limits.** Anything to the contrary in Section 5(a) above notwithstanding, but subject to adjustment under Section 13 of the Plan, the following special limits shall apply to Shares available for Awards under the Plan:

(i) the maximum number of Shares that may be issued pursuant to awards of Restricted Stock, Restricted Stock Units, Performance Stock, Performance Units and Other Awards that are payable in Shares granted under the Plan shall equal fifteen percent of the Shares in the aggregate;

(ii) the maximum amount of Awards (other than those Awards set forth in Section 5(c)) that may be awarded to any Eligible Individual in any calendar year is fifteen percent of the Shares measured as of the date of grant (with respect to Awards denominated in Shares).

(d) Any Shares underlying Substitute Awards shall not be counted against the number of Shares remaining for issuance and shall not be subject to Section 5(c).

## 6. Awards in General

(a) **Types of Awards.** Awards under the Plan may consist of Options, Restricted Stock, Restricted Stock Units, Stock Appreciation Rights, Performance Stock, Performance Units and Other Awards. Any Award described in Sections 7 through 11 of the Plan may be granted singly or in combination or tandem with any other Award, as the Committee may determine. Awards under the Plan may be made in combination with, in replacement of, or as alternatives to awards or rights under any other compensation or benefit plan of the Company, including the plan of any acquired entity.

(b) Terms Set Forth in Award Document. The terms and conditions of each Award shall be set forth in an Award Document in a form approved by the Committee for such Award, which Award Document shall contain terms and conditions not inconsistent with the Plan. Notwithstanding the foregoing, and subject to applicable laws, the Committee may accelerate (i) the vesting or payment of any Award, (ii) the lapse of restrictions on any Award or (iii) the date on which any Award first becomes exercisable. The terms of Awards may vary among Participants, and the Plan does not impose upon the Committee any requirement to make Awards subject to uniform terms. Accordingly, the terms of individual Award Documents may vary.

(c) Termination of Employment. The Committee shall specify at or after the time of grant of an Award the provisions governing the disposition of an Award in the event of a Participant's termination of employment with the Company or any of its Subsidiaries. Subject to applicable laws, rules and regulations, in connection with a Participant's termination of employment, the Committee shall have the discretion to accelerate the vesting, exercisability or settlement of, eliminate the restrictions and conditions applicable to, or extend the post-termination exercise period of an outstanding Award. Such provisions may be specified in the applicable Award Document or determined at a subsequent time.

(d) Change of Control. (i) The Committee shall have full authority to determine the effect, if any, of a Change of Control of the Company or any Subsidiary on the vesting, exercisability, settlement, payment or lapse of restrictions applicable to an Award, which effect may be specified in the applicable Award Document or determined at a subsequent time. Subject to applicable laws, rules and regulations, the Board or the Committee shall, at any time prior to, coincident with or after the effective time of a Change of Control, take such actions as it may consider appropriate, including, without limitation: (A) providing for the acceleration of any vesting conditions relating to the exercise or settlement of an Award or that an Award shall terminate or expire unless exercised or settled in full on or before a date fixed by the Committee; (B) making such adjustments to the Awards then outstanding as the Committee deems appropriate to reflect such Change of Control; (C) causing the Awards then outstanding to be assumed, or new rights substituted therefor, by the surviving corporation in such Change of Control; or (D) permit or require Participants to surrender outstanding Options and Stock Appreciation Rights in exchange for a cash payment, if any, equal to the difference between the highest price paid for a Share in the Change of Control transaction and the Exercise Price of the Award. In addition, except as otherwise specified in an Award Document (or a Participant's written employment agreement with the Company or any Subsidiary):

(1) any and all Options and Stock Appreciation Rights outstanding as of the effective date of the Change of Control shall become immediately exercisable, and shall remain exercisable until the earlier of the expiration of their initial term or the second (2<sup>nd</sup>) anniversary of the Participant's termination of employment with the Company;

(2) any restrictions imposed on Restricted Stock and Restricted Stock Units outstanding as of the effective date of the Change of Control shall lapse;

(3) the Performance Targets with respect to all Performance Units, Performance Stock and other performance-based Awards granted pursuant to Sections 6(g) or 10 outstanding as of the effective date of the Change of Control shall be deemed to have been attained at the specified target level of performance; and

(4) the vesting of all Awards denominated in Shares outstanding as of the effective date of the Change in Control shall be accelerated.

(ii) Subject to applicable laws, rules and regulations, the Committee may provide, in an Award Document or subsequent to the grant of an Award for the accelerated vesting, exercisability and/or the deemed attainment of a Performance Target with respect to an Award upon specified events similar to a Change of Control.

(iii) Notwithstanding any other provision of the Plan or any Award Document, the provisions of this Section 6(d) may not be terminated, amended, or modified upon or after a Change of Control in a manner that would adversely affect a Participant's rights with respect to an outstanding Award without the prior written consent of the Participant. Subject to Section 16, the Board, upon recommendation of the Committee, may terminate, amend or modify this Section 6(d) at any time and from time to time prior to a Change of Control.

(e) Dividends and Dividend Equivalents. The Committee may provide Participants with the right to receive dividends or payments equivalent to dividends or interest with respect to an outstanding Award, which payments can either be paid currently or deemed to have been reinvested in Shares, and can be made in Shares, cash or a combination thereof, as the Committee shall determine; *provided, however*, that the terms of any reinvestment of dividends must comply with all applicable laws, rules and regulations, including, without limitation, Section 409A of the Code. Notwithstanding the foregoing, no dividends or dividend equivalents shall be paid with respect to Options or Stock Appreciation Rights.

(f) Rights of a Stockholder. A Participant shall have no rights as a stockholder with respect to Shares covered by an Award (including voting rights) until the date the Participant or his nominee becomes the holder of record of such Shares. No adjustment shall be made for dividends or other rights for which the record date is prior to such date, except as provided in Section 13.

(g) Performance-Based Awards. (i) The Committee may determine whether any Award under the Plan is intended to be "performance-based compensation" as that term is used in Section 162(m) of the Code. Any such Awards designated to be "performance-based compensation" shall be conditioned on the achievement of one or more Performance Targets to the extent required by Section 162(m) of the Code and will be subject to all other conditions and requirements of Section 162(m). The Performance Targets will be comprised of specified levels of one or more of the following performance criteria as the Committee deems appropriate: net income; cash flow or cash flow on investment; pre-tax or post-tax profit levels or earnings; operating earnings; return on investment; earned value added expense reduction levels; free cash flow; free cash flow per share; earnings per share; net earnings per share; return on assets; return on net assets; return on equity; return on capital; return on sales; growth in managed assets; operating margin; total stockholder return or stock price appreciation; EBITDA; adjusted EBITDA; revenue; revenue before deferral, in each case determined in accordance with generally accepted accounting principles (subject to modifications approved by the Committee) consistently applied on a business unit, divisional, subsidiary or consolidated basis or any combination thereof. The Performance Targets may be described in terms of objectives that are related to the individual Participant or objectives that are Company-wide or related to a Subsidiary, division, department, region, function or business unit and may be measured on an absolute or cumulative basis or on the basis of percentage of improvement over time, and may be measured in terms of Company performance (or performance of the applicable Subsidiary, division, department, region, function or business unit) or measured relative to selected peer companies or a market index. In addition, for Awards not intended to qualify as "performance-based compensation" under Section 162(m) of the Code, the Committee may establish Performance Targets based on other criteria as it deems appropriate.

(ii) The Participants will be designated, and the applicable Performance Targets will be established, by the Committee within ninety (90) days following the commencement of the applicable Performance Period (or such earlier or later date permitted or required by Section 162(m) of the Code). Each Participant will be assigned a Target Number payable if Performance Targets are achieved. Any payment of an Award granted with Performance Targets shall be conditioned on the written certification of the Committee in each case that the Performance Targets and any other material conditions were satisfied. The Committee may determine, at the time of Award grant, that if performance exceeds the specified Performance Targets, the Award may be settled with payment greater than the Target Number, but in no event may such payment exceed the limits set forth in Section 5(c). The Committee retains the right to reduce any Award notwithstanding the attainment of the Performance Targets.

(h) Deferrals. In accordance with the procedures authorized by, and subject to the approval of, the Committee, Participants may be given the opportunity to defer the payment or settlement of an Award to one or more dates selected by the Participant; *provided, however*, that the terms of any deferrals must comply with all applicable laws, rules and regulations, including, without limitation, Section 409A of the Code. No deferral opportunity shall exist with respect to an Award unless explicitly permitted by the Committee on or after the time of grant.

(i) Repricing of Options and Stock Appreciation Rights. Notwithstanding anything in the Plan to the contrary, an Option or Stock Appreciation Right shall not be granted in substitution for a previously granted Option or Stock Appreciation Right being canceled or surrendered as a condition of receiving a new Award, if the new Award would have a lower exercise price than the Award it replaces, nor shall the exercise price of an Option or Stock Appreciation Right be reduced once the Option or Stock Appreciation Right is granted. The foregoing shall not (i) prevent adjustments pursuant to Section 13 or (ii) apply to grants of Substitute Awards.

## 7. Terms and Conditions of Options

(a) General. The Committee, in its discretion, may grant Options to Eligible Individuals and shall determine whether such Options shall be Incentive Stock Options or Nonqualified Stock Options. Each Option shall be evidenced by an Award Document that shall expressly identify the Option as an Incentive Stock Option or Nonqualified Stock Option, and be in such form and contain such provisions as the Committee shall from time to time deem appropriate.

(b) Exercise Price. The exercise price of an Option shall be fixed by the Committee at the time of grant or shall be determined by a method specified by the Committee at the time of grant. In no event shall the exercise price of an Option be less than one hundred percent (100%) of the Fair Market Value of a Share on the date of grant; *provided, however* that the exercise price of a Substitute Award granted as an Option shall be determined in accordance with Section 409A of the Code and may be less than one hundred percent (100%) of the Fair Market Value.

(c) Term. An Option shall be effective for such term as shall be determined by the Committee and as set forth in the Award Document relating to such Option, and the Committee may extend the term of an Option after the time of grant; *provided, however*, that the term of an Option may in no event extend beyond the tenth (10<sup>th</sup>) anniversary of the date of grant of such Option.



(d) Exercise; Payment of Exercise Price. Options shall be exercised by delivery of a notice of exercise in a form approved by the Company. Subject to the provisions of the applicable Award Document, the exercise price of an Option may be paid (i) in cash or cash equivalents, (ii) by actual delivery or attestation to ownership of freely transferable Shares already owned by the person exercising the Option, (iii) by a combination of cash and Shares equal in value to the exercise price, (iv) through net share settlement or similar procedure involving the withholding of Shares subject to the Option with a value equal to the exercise price or (v) by such other means as the Committee may authorize. In accordance with the rules and procedures authorized by the Committee for this purpose, the Option may also be exercised through a “cashless exercise” procedure authorized by the Committee from time to time that permits Participants to exercise Options by delivering irrevocable instructions to a broker to deliver promptly to the Company the amount of sale or loan proceeds necessary to pay the exercise price and the amount of any required tax or other withholding obligations or such other procedures determined by the Company from time to time.

(e) Incentive Stock Options. The exercise price per Share of an Incentive Stock Option shall be fixed by the Committee at the time of grant or shall be determined by a method specified by the Committee at the time of grant, but in no event shall the exercise price of an Incentive Stock Option be less than one hundred percent (100%) of the Fair Market Value of a Share on the date of grant. No Incentive Stock Option may be issued pursuant to the Plan to any individual who, at the time the Incentive Stock Option is granted, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any of its Subsidiaries, unless (i) the exercise price determined as of the date of grant is at least one hundred ten percent (110%) of the Fair Market Value on the date of grant of the Shares subject to such Incentive Stock Option and (ii) the Incentive Stock Option is not exercisable more than five (5) years from the date of grant thereof. No Participant shall be granted any Incentive Stock Option which would result in such Participant receiving a grant of Incentive Stock Options that would have an aggregate Fair Market Value in excess of one hundred thousand dollars (\$100,000), determined as of the time of grant, that would be exercisable for the first time by such Participant during any calendar year. No Incentive Stock Option may be granted under the Plan after the tenth anniversary of the Effective Date. The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code, or any successor provision thereto, as amended from time to time.

## **8. Terms and Conditions of Restricted Stock and Restricted Stock Units**

(a) Restricted Stock. The Committee, in its discretion, may grant or sell Restricted Stock to Eligible Individuals. An Award of Restricted Stock shall consist of one or more Shares granted or sold to an Eligible Individual, and shall be subject to the terms, conditions and restrictions set forth in the Plan and established by the Committee in connection with the Award and specified in the applicable Award Document. Restricted Stock may, among other things, be subject to restrictions on transferability, vesting requirements or other specified circumstances under which it may be canceled.

(b) Restricted Stock Units. The Committee, in its discretion, may grant Restricted Stock Units to Eligible Individuals. A Restricted Stock Unit shall entitle a Participant to receive, subject to the terms, conditions and restrictions set forth in the Plan and the applicable Award Document, one or more Shares. Restricted Stock Units may, among other things, be subject to restrictions on transferability, vesting requirements or other specified circumstances under which they may be canceled. If and when the cancellation provisions lapse, the Restricted Stock Units shall become Shares owned by the applicable Participant or, at the sole discretion of the Committee, cash, or a combination of cash and Shares, with a value equal to the Fair Market Value of the Shares at the time of payment.

## 9. Stock Appreciation Rights

(a) General. The Committee, in its discretion, may grant Stock Appreciation Rights to Eligible Individuals. A Stock Appreciation Right shall entitle a Participant to receive, upon satisfaction of the conditions to payment specified in the applicable Award Document, an amount equal to the excess, if any, of the Fair Market Value on the exercise date of the number of Shares for which the Stock Appreciation Right is exercised over the grant price for such Stock Appreciation Right specified in the applicable Award Document. The grant price per share of Shares covered by a Stock Appreciation Right shall be fixed by the Committee at the time of grant or, alternatively, shall be determined by a method specified by the Committee at the time of grant, but in no event shall the grant price of a Stock Appreciation Right be less than one hundred percent (100%) of the Fair Market Value of a Share on the date of grant; *provided, however*, that the grant price of a Substitute Award granted as a Stock Appreciation Rights shall be in accordance with Section 409A of the Code and may be less than one hundred percent (100%) of the Fair Market Value. Payments to a Participant upon exercise of a Stock Appreciation Right may be made in cash or Shares, having an aggregate Fair Market Value as of the date of exercise equal to the excess, if any, of the Fair Market Value on the exercise date of the number of Shares for which the Stock Appreciation Right is exercised over the grant price for such Stock Appreciation Right. The term of a Stock Appreciation Right settled in Shares shall not exceed seven (7) years.

(b) Stock Appreciation Rights in Tandem with Options. A Stock Appreciation Right granted in tandem with an Option may be granted either at the same time as such Option or subsequent thereto. If granted in tandem with an Option, a Stock Appreciation Right shall cover the same number of Shares as covered by the Option (or such lesser number of shares as the Committee may determine) and shall be exercisable only at such time or times and to the extent the related Option shall be exercisable, and shall have the same term as the related Option. The grant price of a Stock Appreciation Right granted in tandem with an Option shall equal the per-share exercise price of the Option to which it relates. Upon exercise of a Stock Appreciation Right granted in tandem with an Option, the related Option shall be canceled automatically to the extent of the number of Shares covered by such exercise; conversely, if the related Option is exercised as to some or all of the shares covered by the tandem grant, the tandem Stock Appreciation Right shall be canceled automatically to the extent of the number of Shares covered by the Option exercise.

## 10. Terms and Conditions of Performance Stock and Performance Units

(a) Performance Stock. The Committee may grant Performance Stock to Eligible Individuals. An Award of Performance Stock shall consist of a Target Number of Shares granted to an Eligible Individual based on the achievement of Performance Targets over the applicable Performance Period, and shall be subject to the terms, conditions and restrictions set forth in the Plan and established by the Committee in connection with the Award and specified in the applicable Award Document.

(b) Performance Units. The Committee, in its discretion, may grant Performance Units to Eligible Individuals. A Performance Unit shall entitle a Participant to receive, subject to the terms, conditions and restrictions set forth in the Plan and established by the Committee in connection with the Award and specified in the applicable Award Document, a Target Number of Shares or cash based upon the achievement of Performance Targets over the applicable Performance Period. At the sole discretion of the Committee, Performance Units shall be settled through the delivery of Shares or cash, or a combination of cash and Shares, with a value equal to the Fair Market Value of the underlying Shares as of the last day of the applicable Performance Period.

## 11. Other Awards

The Committee shall have the authority to specify the terms and provisions of other forms of equity-based or equity-related Awards not described above that the Committee determines to be consistent with the purpose of the Plan and the interests of the Company, which Awards may provide for cash payments based in whole or in part on the value or future value of Shares, for the acquisition or future acquisition of Shares, or any combination thereof.

## 12. Certain Restrictions

(a) Transfers. No Award shall be transferable other than pursuant to a beneficiary designation under Section 12(c), by last will and testament or by the laws of descent and distribution or, except in the case of an Incentive Stock Option, pursuant to a domestic relations order, as the case may be; *provided, however*, that the Committee may, subject to applicable laws, rules and regulations and such terms and conditions as it shall specify, permit the transfer of an Award, other than an Incentive Stock Option, for no consideration to a Permitted Transferee. Any Award transferred to a Permitted Transferee shall be further transferable only by last will and testament or the laws of descent and distribution or, for no consideration, to another Permitted Transferee of the Participant.

(b) Award Exercisable Only by Participant. During the lifetime of a Participant, an Award shall be exercisable only by the Participant or by a Permitted Transferee to whom such Award has been transferred in accordance with Section 12(a) above. The grant of an Award shall impose no obligation on a Participant to exercise or settle the Award.

(c) Beneficiary Designation. The beneficiary or beneficiaries of the Participant to whom any benefit under the Plan is to be paid in case of his death before he receives any or all of such benefit shall be determined under the Company's Group Life Insurance Plan. A Participant may, from time to time, name any beneficiary or beneficiaries to receive any benefit in case of his death before he receives any or all of such benefit. Each such designation shall revoke all prior designations by the same Participant, including the beneficiary designated under the Company's Group Life Insurance Plan, and will be effective only when filed by the Participant in writing (in such form or manner as may be prescribed by the Committee) with the Company during the Participant's lifetime. In the absence of a valid designation under the Company's Group Life Insurance Plan or otherwise, if no validly designated beneficiary survives the Participant or if each surviving validly designated beneficiary is legally impaired or prohibited from receiving the benefits under an Award, the Participant's beneficiary shall be the Participant's estate.

## 13. Recapitalization or Reorganization

(a) Authority of the Company and Stockholders. The existence of the Plan, the Award Documents and the Awards granted hereunder shall not affect or restrict in any way the right or power of the Company or the stockholders of the Company to make or authorize any adjustment, recapitalization, reorganization or other change in the Company's capital structure or business, any merger or consolidation of the Company, any issue of stock or of options, warrants or rights to purchase stock or of bonds, debentures, preferred or prior preference stocks whose rights are superior to or affect the Shares or the rights thereof or which are convertible into or exchangeable for Shares, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(b) Change in Capitalization. Notwithstanding any provision of the Plan or any Award Document, the number and kind of Shares authorized for issuance under Section 5 of the Plan, including the maximum number of Shares available under the special limits provided for in Section 5(c), may be equitably adjusted in the sole discretion of the Committee in the event of a stock split, reverse stock split, stock dividend, recapitalization, reorganization, partial or complete liquidation, reclassification, merger, consolidation, separation, extraordinary cash dividend, split-up, spin-off, combination, exchange of Shares, warrants or rights offering to purchase Shares at a price substantially below Fair Market Value, or any other corporate event or distribution of stock or property of the Company affecting the Shares in order to preserve, but not increase, the benefits or potential benefits intended to be made available under the Plan. In addition, upon the occurrence of any of the foregoing events, the number and kind of Shares subject to any outstanding Award and the exercise price per Share (or the grant price per Share, as the case may be), if any, under any outstanding Award may be equitably adjusted (including by payment of cash to a Participant) in the sole discretion of the Committee in order to preserve the benefits or potential benefits intended to be made available to Participants. Such adjustments shall be made by the Committee. Unless otherwise determined by the Committee, such adjusted Awards shall be subject to the same restrictions and vesting or settlement schedule to which the underlying Award is subject.

#### **14. Term of the Plan**

Unless earlier terminated pursuant to Section 16, the Plan shall terminate on the tenth (10<sup>th</sup>) anniversary of the Effective Date, except with respect to Awards then outstanding. No Awards may be granted under the Plan after the tenth (10<sup>th</sup>) anniversary of the Effective Date.

#### **15. Effective Date**

The Plan shall become effective on the Effective Date, subject to approval by the stockholders of the Company.

#### **16. Amendment and Termination**

Subject to applicable laws, rules and regulations, the Board may at any time terminate or, from time to time, amend, modify or suspend the Plan; *provided, however,* that no termination, amendment, modification or suspension (i) will be effective without the approval of the stockholders of the Company if such approval is required under applicable laws, rules and regulations, including the rules of NASDAQ and (ii) shall materially and adversely alter or impair the rights of a Participant in any Award previously made under the Plan without the consent of the holder thereof. Notwithstanding the foregoing, the Board shall have broad authority to amend the Plan or any Award under the Plan without the consent of a Participant to the extent it deems necessary or desirable (a) to comply with, take into account changes in, or interpretations of, applicable tax laws, securities laws, employment laws, accounting rules and other applicable laws, rules and regulations, (b) to take into account unusual or nonrecurring events or market conditions (including, without limitation, the events described in Section 13(b)), or (c) to take into account significant acquisitions or dispositions of assets or other property by the Company.

#### **17. Miscellaneous**

(a) Tax Withholding. The Company or a Subsidiary, as appropriate, may require any individual entitled to receive a payment of an Award to remit to the Company, prior to payment, an amount sufficient to satisfy any applicable tax withholding requirements. In the case of an Award payable in Shares, the Company or a Subsidiary, as appropriate, may permit or require a Participant to satisfy, in whole or in part, such obligation to remit taxes by directing the Company to withhold shares that would otherwise be received by such individual or to repurchase shares that were issued to the Participant to satisfy the minimum statutory withholding rates for any applicable tax withholding purposes, in accordance with all applicable laws and pursuant to such rules as the Committee may establish from time to time. The Company or a Subsidiary, as appropriate, shall also have the right to deduct from all cash payments made to a Participant (whether or not such payment is made in connection with an Award) any applicable taxes required to be withheld with respect to such payments.

(b) No Right to Awards or Employment. No person shall have any claim or right to receive Awards under the Plan. Neither the Plan, the grant of Awards under the Plan nor any action taken or omitted to be taken under the Plan shall be deemed to create or confer on any Eligible Individual any right to be retained in the employ of the Company or any Subsidiary or other affiliate thereof, or to interfere with or to limit in any way the right of the Company or any Subsidiary or other affiliate thereof to terminate the employment of such Eligible Individual at any time. No Award shall constitute salary, recurrent compensation or contractual compensation for the year of grant, any later year or any other period of time. Payments received by a Participant under any Award made pursuant to the Plan shall not be included in, nor have any effect on, the determination of employment-related rights or benefits under any other employee benefit plan or similar arrangement provided by the Company and the Subsidiaries, unless otherwise specifically provided for under the terms of such plan or arrangement or by the Committee.

(c) Securities Law Restrictions. An Award may not be exercised or settled, and no Shares may be issued in connection with an Award, unless the issuance of such shares (i) has been registered under the Securities Act of 1933, as amended, (ii) has qualified under applicable state “blue sky” laws (or the Company has determined that an exemption from registration and from qualification under such state “blue sky” laws is available) and (iii) complies with all applicable foreign securities laws. The Committee may require each Participant purchasing or acquiring Shares pursuant to an Award under the Plan to represent to and agree with the Company in writing that such Eligible Individual is acquiring the Shares for investment purposes and not with a view to the distribution thereof. All certificates for Shares delivered under the Plan shall be subject to such stock-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any exchange upon which the Shares are then listed, and any applicable securities law, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(d) Section 162(m) of the Code. The Plan is intended to comply in all respects with Section 162(m) of the Code; *provided, however*, that in the event the Committee determines that compliance with Section 162(m) of the Code is not desired with respect to a particular Award, compliance with Section 162(m) of the Code will not be required. In addition, if any provision of this Plan would cause Awards that are intended to constitute “qualified performance-based compensation” under Section 162(m) of the Code, to fail to so qualify, that provision shall be severed from, and shall be deemed not to be a part of, the Plan, but the other provisions hereof shall remain in full force and effect.

(e) Section 409A of the Code. Notwithstanding any contrary provision in the Plan or an Award Document, if any provision of the Plan or an Award Document contravenes any regulations or guidance promulgated under Section 409A of the Code or would cause an Award to be subject to additional taxes, accelerated taxation, interest and/or penalties under Section 409A of the Code, such provision of the Plan or Award Document may be modified by the Committee without consent of the Participant in any manner the Committee deems reasonable or necessary. In making such modifications the Committee shall attempt, but shall not be obligated, to maintain, to the maximum extent practicable, the original intent of the applicable provision without contravening the provisions of Section 409A of the Code. Moreover, any discretionary authority that the Committee may have pursuant to the Plan shall not be applicable to an Award that is subject to Section 409A of the Code to the extent such discretionary authority would contravene Section 409A of the Code or the guidance promulgated thereunder.

(f) Awards to Individuals Subject to Laws of a Jurisdiction Outside of the United States. To the extent that Awards under the Plan are awarded to Eligible Individuals who are domiciled or resident outside of the United States or to persons who are domiciled or resident in the United States but who are subject to the tax laws of a jurisdiction outside of the United States, the Committee may adjust the terms of the Awards granted hereunder to such person (i) to comply with the laws, rules and regulations of such jurisdiction and (ii) to permit the grant of the Award not to be a taxable event to the Participant. The authority granted under the previous sentence shall include the discretion for the Committee to adopt, on behalf of the Company, one or more sub-plans applicable to separate classes of Eligible Individuals who are subject to the laws of jurisdictions outside of the United States.

(g) Satisfaction of Obligations. Subject to applicable law, the Company may apply any cash, Shares, securities or other consideration received upon exercise or settlement of an Award to any obligations a Participant owes to the Company and the Subsidiaries in connection with the Plan or otherwise, including, without limitation, any tax obligations or obligations under a currency facility established in connection with the Plan.

(h) No Limitation on Corporate Actions. Nothing contained in the Plan shall be construed to prevent the Company or any Subsidiary from taking any corporate action, whether or not such action would have an adverse effect on any Awards made under the Plan. No Participant, beneficiary or other person shall have any claim against the Company or any Subsidiary as a result of any such action.

(i) Unfunded Plan. The Plan is intended to constitute an unfunded plan for incentive compensation. Prior to the issuance of Shares, cash or other form of payment in connection with an Award, nothing contained herein shall give any Participant any rights that are greater than those of a general unsecured creditor of the Company. The Committee may, but is not obligated, to authorize the creation of trusts or other arrangements to meet the obligations created under the Plan to deliver Shares with respect to awards hereunder.

(j) Successors. All obligations of the Company under the Plan with respect to Awards granted hereunder shall be binding on any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation, or otherwise, of all or substantially all of the business and/or assets of the Company.

(k) Application of Funds. The proceeds received by the Company from the sale of Shares pursuant to Awards will be used for general corporate purposes.

(l) Award Document. In the event of any conflict or inconsistency between the Plan and any Award Document, the Plan shall govern and the Award Document shall be interpreted to minimize or eliminate any such conflict or inconsistency.

(m) Headings. The headings of Sections herein are included solely for convenience of reference and shall not affect the meaning of any of the provisions of the Plan.

(n) Severability. If any provision of this Plan is held unenforceable, the remainder of the Plan shall continue in full force and effect without regard to such unenforceable provision and shall be applied as though the unenforceable provision were not contained in the Plan.

(o) Expenses. The costs and expenses of administering the Plan shall be borne by the Company.

(p) Arbitration. Any dispute, controversy or claim arising out of or relating to the Plan that cannot be resolved by the Participant on the one hand, and the Company on the other, shall be submitted to arbitration in the State of Connecticut under the National Rules for the Resolution of Employment Disputes of the American Arbitration Association; *provided, however*, that any such submission by the Participant must be made within one (1) year of the date of the events giving rise to such dispute, controversy or claim. The determination of the arbitrator shall be conclusive and binding on the Company and the Participant, and judgment may be entered on the arbitrator's award in any court having jurisdiction. The expenses of such arbitration shall be borne by the Company; *provided, however*, that each party shall bear its own legal expenses unless the Participant is the prevailing party, in which case the Company shall promptly pay or reimburse the Participant for the reasonable legal fees and expenses incurred by the Participant in connection with such contest or dispute (excluding any fees payable pursuant to a contingency fee arrangement).

(q) Governing Law. Except as to matters of federal law, the Plan and all actions taken thereunder shall be governed by and construed in accordance with the laws of the State of Connecticut.

**EXHIBIT 31.1**

I, Constantine S. Macricostas, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Photonics, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ CONSTANTINE S. MACRICOSTAS

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Constantine S. Macricostas  
Chief Executive Officer  
June 10, 2010

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**EXHIBIT 31.2**

I, Sean T. Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Photonics, Inc.
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ SEAN T. SMITH

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Sean T. Smith  
Chief Financial Officer  
June 10, 2010

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**EXHIBIT 32.1**

**Section 1350 Certification of the Chief Executive Officer**

I, Constantine S. Macricostas, Chief Executive Officer of Photronics, Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) the Quarterly Report on Form 10-Q of the Company for the quarter ended May 2, 2010 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CONSTANTINE S. MACRICOSTAS

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Constantine S. Macricostas  
Chief Executive Officer  
June 10, 2010

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**EXHIBIT 32.2**

**Section 1350 Certification of the Chief Financial Officer**

I, Sean T. Smith, Chief Financial Officer of Photronics, Inc. (the "Company"), certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) the Quarterly Report on Form 10-Q of the Company for the quarter ended May 2, 2010 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ SEAN T. SMITH

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Sean T. Smith  
Chief Financial Officer  
June 10, 2010

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