

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 July 29, 2007**

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: **None**

Securities registered pursuant to Section 12(g) of the Act: **Common Stock, \$0.01 par value per share**

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 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

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 September 3, 2007  
**41,844,069 Shares**

## Forward-Looking Information

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements made by or on behalf of Photronics, Inc. (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 and conference calls, regarding the consummation and benefits of future acquisitions, expectations with respect to future sales, financial performance, operating efficiencies and 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, performances or achievements. Factors that might affect such forward-looking statements include, but are not limited to, overall economic and business conditions; the demand and receipt of orders 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); the Company's ability to place new equipment in service on a timely basis; interest rate fluctuations and other capital market conditions, including foreign currency rate fluctuations; economic and political conditions in international markets; the ability to obtain additional financings; the ability to achieve anticipated synergies and other cost savings in connection with acquisitions and productivity programs; uncertainties with respect to the integration and management of MP Mask Technology Center, LLC (MP Mask); delays in the construction and equipping of the planned nanofab fabrication facilities; the timing, impact and other uncertainties of future acquisitions; the seasonal and cyclical nature of the semiconductor and flat panel display industries; the availability of capital; management changes; damage or destruction to the Company's facilities by natural disasters, labor strikes, political unrest or terrorist activity; the ability to fully utilize its tools; the ability of the Company to receive desired yields, pricing, product mix, and market acceptance of its products; changes in technology; and the ability of the Company to 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.

## 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>July 29, 2007</b>	<b>October 29, 2006</b>
	<u>          </u>	<u>          </u>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$120,056	\$ 129,425
Short-term investments	25,182	69,899
Accounts receivable, net of allowance of \$4,740 in 2007 and \$4,471 in 2006	72,527	84,299
Inventories	16,630	19,209
Other current assets	11,790	16,055
	<u>246,185</u>	<u>318,887</u>
Property, plant and equipment, net	460,116	443,637
Goodwill	138,534	138,534
Investment in joint venture	65,646	64,365
Other intangibles, net	70,004	71,763
Other assets	6,857	8,497
	<u>\$987,342</u>	<u>\$1,045,683</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of long-term borrowings	\$ 25,000	\$ 86,903
Accounts payable	65,962	53,907
Accrued liabilities	31,123	50,386
	<u>122,085</u>	<u>191,196</u>
Total current liabilities	122,085	191,196
Long-term borrowings	149,608	170,288
Deferred income taxes and other liabilities	16,509	23,920
	<u>288,202</u>	<u>385,404</u>
Total liabilities	288,202	385,404

Minority interest	48,914	45,997
Shareholders' 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, 41,572 shares issued and outstanding at July 29, 2007 and 41,485 shares issued and outstanding at October 29, 2006	416	415
Additional paid-in capital	380,896	378,143
Retained earnings	226,813	202,652
Accumulated other comprehensive income	42,101	33,072
Total shareholders' equity	650,226	614,282
	<u>\$987,342</u>	<u>\$1,045,683</u>

See accompanying notes to condensed consolidated financial statements.

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

	Three Months Ended		Nine Months Ended	
	July 29, 2007	July 30, 2006	July 29, 2007	July 30, 2006
Net sales	\$104,301	\$108,160	\$319,908	\$339,579
Costs and expenses:				
Cost of sales	(80,595)	(75,256)	(240,344)	(228,685)
Selling, general and administrative	(16,039)	(15,524)	(46,922)	(46,438)
Research and development	(4,241)	(6,741)	(13,285)	(22,985)
Consolidation, restructuring and related charges	-	(1,790)	-	(13,216)
Gain on sale of facility	-	-	2,254	-
Operating income	3,426	8,849	21,611	28,255
Other income (expense), net				
Interest expense	(1,477)	(2,989)	(4,509)	(9,002)
Investment and other income, net	2,344	1,715	5,521	13,294
Income before income taxes and minority interest	4,293	7,575	22,623	32,547
Income tax (provision) benefit	(1,126)	(1,692)	3,962	(9,324)
Income before minority interest	3,167	5,883	26,585	23,223

Minority interest	(929)	(1,328)	(2,424)	(3,710)
Net income	\$2,238	\$ 4,555	\$24,161	\$ 19,513
Earnings per share:				
Basic	\$0.05	\$0.11	\$0.58	\$0.47
Diluted	\$0.05	\$0.11	\$0.53	\$0.45
Weighted average number of common shares outstanding:				
Basic	41,558	41,383	41,515	41,344
Diluted	41,864	41,735	51,355	51,036

See accompanying notes to condensed consolidated financial statements.

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

	<b>Nine Months Ended</b>	
	<b>July 29, 2007</b>	<b>July 30, 2006</b>
Cash flows from operating activities:		
Net income	\$24,161	\$19,513
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	72,234	67,594
Gain on sale of facility and other	(3,027)	-
Gain on sale of investments	(257)	-
Minority interest in income of consolidated subsidiaries	2,424	3,710
Consolidation, restructuring and related charges	-	13,216
Changes in assets and liabilities:		
Accounts receivable	15,330	(5,078)
Inventories	4,124	(597)
Other current assets	4,231	(4,514)
Accounts payable and other	(25,146)	(13,946)
Net cash provided by operating activities	94,074	79,898
Cash flows from investing activities:		
Purchases of property, plant and equipment	(56,951)	(83,441)
Acquisition of additional interest in PK Ltd.	-	(8,432)
Proceeds from the sale of short-term investments and other	48,253	78,697
Investment in joint venture, technology and supply agreements	(1,000)	(120,505)
Purchases of short-term investments	(5,465)	(64,983)
Proceeds from sale of facility and other	5,783	-
Net cash used in investing activities	(9,380)	(198,664)
Cash flows from financing activities:		

Repayments of long-term borrowings	(87,087)	(4,725)
Payment to Micron Technology, Inc.	(7,500)	-
Proceeds from long-term borrowings	3,369	12,218
Proceeds from issuance of common stock	631	1,172
Other	(1,485)	-
	<u>(92,072)</u>	<u>8,665</u>
Net cash (used in) provided by financing activities	(92,072)	8,665
Effect of exchange rate changes on cash flows	(1,991)	(709)
	<u>(9,369)</u>	<u>(110,810)</u>
Net decrease in cash and cash equivalents	(9,369)	(110,810)
Cash and cash equivalents at beginning of period	129,425	196,049
	<u>120,056</u>	<u>85,239</u>
Cash and cash equivalents at end of period	\$ 120,056	\$85,239
Supplemental cash flow information:		
Change in accrual for purchases of property, plant and equipment	\$ 16,480	\$12,585

See accompanying notes to condensed consolidated financial statements.

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## PHOTRONICS, INC. AND SUBSIDIARIES

Notes to Condensed Consolidated Financial Statements  
Three and Nine Months Ended July 29, 2007 and July 30, 2006  
(in thousands, except per share amounts)  
(unaudited)

### NOTE 1 - BASIS OF FINANCIAL STATEMENT PRESENTATION

Photronics, Inc. and its subsidiaries (the "Company" or "Photronics") 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 (FPD), and are used as masters to transfer circuit patterns onto semiconductor wafers and flat panel substrates during the fabrication of integrated circuits (IC) and a variety of FPD and, to a lesser extent, other types of electrical and optical components. The Company currently operates principally from ten manufacturing facilities, two of which are located in the United States, three in Europe, two in Taiwan, and one each in Korea, Singapore and China, which began production in the second quarter of the Company's fiscal 2007 year. The Company is also constructing an independent state-of-the-art nanofab facility (the "New NanoFab") in Boise, Idaho, under a build-to-suit lease agreement with Micron Technology, Inc. which is expected to be completed by the end of calendar year 2007.

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 28, 2007. 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 October 29, 2006.

### NOTE 2 - COMPREHENSIVE INCOME

The following table summarizes comprehensive income for the three and nine months ended July 29, 2007 and July 30, 2006:

	Three Months Ended		Nine Months Ended	
	July 29, 2007	July 30, 2006	July 29, 2007	July 30, 2006
Net income	\$2,238	\$4,555	\$24,161	\$19,513
Other comprehensive income:				
Change in unrealized net				

gains on investments, net of tax	13	522	(108)	(762)
Change in fair value of cash flow hedges	(330)	28	(1,703)	84
Foreign currency translation adjustments	4,281	(1,237)	10,840	19,437
	3,964	(687)	9,029	18,759
Total comprehensive income	\$6,202	\$3,868	\$33,190	\$38,272

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### NOTE 3 - EARNINGS PER SHARE

The calculation of basic and diluted earnings per share is presented below:

	Three Months Ended		Nine Months Ended	
	July 29, 2007	July 30, 2006	July 29, 2007	July 30, 2006
Net income	\$2,238	\$4,555	\$24,161	\$19,513
Effect of dilutive securities:				
Interest expense on convertible notes, net of related tax effect	-	-	3,301	3,301
Earnings for diluted earnings per share	\$2,238	\$4,555	\$27,462	\$22,814
Weighted average common shares computations:				
Weighted average common shares used for basic earnings per share	41,558	41,383	41,515	41,344
Effect of dilutive securities:				
Convertible notes	-	-	9,441	9,441
Employee stock options	306	352	399	251
Dilutive potential common shares	306	352	9,840	9,692
Weighted average common shares used for diluted earnings per share	41,864	41,735	51,355	51,036
Basic earnings per share	\$0.05	\$0.11	\$0.58	\$0.47
Diluted earnings per share	\$0.05	\$0.11	\$0.53	\$0.45

The effect of the potential conversion of some of the Company's convertible subordinated notes and the exercise of certain stock options has been antidilutive. The following table shows the amount of incremental shares outstanding that would have been added if the assumed conversion of convertible subordinated notes and stock options had been dilutive.

	Three Months Ended		Nine Months Ended	
	July 29, 2007	July 30, 2006	July 29, 2007	July 30, 2006
Convertible notes	9,441	11,795	405	2,354
Employee stock options	2,034	1,472	1,870	1,166

Total potentially dilutive shares excluded	11,475	13,267	2,275	3,520
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#### NOTE 4 - INVESTMENTS

Short-term investments at July 29, 2007 and October 29, 2006 consist of available-for-sale fixed income and marketable equity securities. Long-term investments of \$392 at July 29, 2007 and \$706 at October 29, 2006 included in "Other Assets" primarily consist of available-for-sale equity securities, where fair values were determined based upon quoted market prices.

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Available-for-sale investments at July 29, 2007 were as follows:

	<u>Cost Basis</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Estimated Fair Value</u>
Short-term debt investments:				
Auction rate securities	\$12,000	\$ -	\$ -	\$12,000
Foreign bond funds and other	12,915	267	-	13,182
Total short-term investments	24,915	267	-	25,182
Long-term equity investments	30	362	-	392
	<u>\$24,945</u>	<u>\$629</u>	<u>\$ -</u>	<u>\$25,574</u>

Available-for-sale investments at October 29, 2006 were as follows:

	<u>Cost Basis</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Estimated Fair Value</u>
Short-term debt investments:				
Auction rate securities	\$50,400	\$ -	\$ -	\$50,400
Foreign bond funds and other	19,479	125	(105)	19,499
Total short-term investments	69,879	125	(105)	69,899
Long-term equity investments	51	655	-	706
	<u>\$69,930</u>	<u>\$780</u>	<u>\$(105)</u>	<u>\$70,605</u>

In determining whether investment holdings are other than temporarily impaired, the Company considers the nature, cause, severity and duration of the impairment. The Company and its investment advisors used analyst reports, credit ratings or other items as part of its review. No investments were considered to be other than temporarily impaired as of July 29, 2007.

The maturities of available-for-sale short-term debt investments at July 29, 2007 were as follows:

<u>Cost Basis</u>	<u>Estimated Fair Value</u>
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Due in one year or less	\$12,915	\$13,182
Due after ten years	12,000	12,000
	<u>\$24,915</u>	<u>\$25,182</u>

In the nine month periods ended July 29, 2007 and July 30, 2006, the Company sold \$48.3 million and \$77.0 million, respectively, of short-term debt investments.

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Gross realized gains and losses related to the Company's investments are as follows:

	<b>Nine Months Ended</b>	
	<b>July 29, 2007</b>	<b>July 30, 2006</b>
Gross realized gains	\$435	\$2,165
Gross realized losses	(87)	(148)
Net realized gains	<u>\$348</u>	<u>\$2,017</u>

#### **NOTE 5 - STOCK-BASED COMPENSATION PLANS**

In March 2007, shareholders of the Company approved a new stock-based compensation plan (the "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. A maximum of three million shares of Common Stock may be issued under the Plan. Awards may be granted to Company officers, employees and directors, non-employee directors, consultants, advisors and independent contractors of the Company or a subsidiary of the Company. The Plan prohibits further awards from being issued under prior plans. The Plan is more fully described below. The Company incurred compensation cost under the plans for the three and nine months ended July 29, 2007 of \$0.8 million and \$2.3 million, respectively, as compared to \$0.6 million and \$1.3 million, respectively, for the comparable prior year periods. No compensation cost was capitalized as part of inventory, and no income tax benefit was recorded in those years. No equity awards were settled in cash 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 must have an exercise price no less than 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 fair value of option grants is determined with the closing price on the day 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 option life, which represents the period of time that the options granted are expected to remain outstanding. The risk-free rate of return for the estimated life of the option is based on the U.S. treasury yield curve in effect at the time of grant. The weighted average assumptions used for the nine months ended July 29, 2007 and July 30, 2006 are as follows:

	<b>Nine Months Ended</b>	
	<b>July 29, 2007</b>	<b>July 30, 2006</b>
Volatility	52.8%	55.1%
Risk-free rate of return	4.5%	4.8%

Dividend yield	0.0%	0.0%
Weighted average life	4.6 years	4.5 years

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A summary of option activity under the Plan as of July 29, 2007 follows:

<b>Options</b>	<b>Shares</b>	<b>Weighted Average Exercise Price</b>	<b>Weighted Average Remaining Contractual Life</b>	<b>Aggregate Intrinsic Value</b>
Outstanding at July 29, 2007	2,403,997	\$18.70	6.6 years	\$222
Exercisable at July 29, 2007	1,807,837	\$19.33	5.9 years	\$213

During the nine months ending July 29, 2007, 52,750 shares were granted with a weighted-average grant-date fair value of \$7.31 per share. For the comparable period last year 682,700 shares were granted with a weighted-average grant-date fair value of \$8.52 per share. As of July 29, 2007, the total compensation cost for non-vested awards not yet recognized was approximately \$4.3 million. That cost is expected to be recognized over a weighted average amortization period of 1.8 years.

#### **Restricted Stock**

The Company also grants restricted stock awards annually. The restrictions on these awards lapse over a service period that has ranged from less than one to eight years. During the nine months ending July 29, 2007, 36,500 shares were granted with a weighted-average grant-date fair value of \$14.11 per share. For the comparable period last year 285,000 shares were granted with a weighted-average grant-date fair value of \$16.59 per share. As of July 29, 2007, the total compensation cost for non-vested awards not yet recognized was approximately \$3.5 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 nonvested restricted shares as of July 29, 2007 follows:

<b>Restricted Stock</b>	<b>Shares</b>	<b>Weighted Average Remaining Contractual Life</b>	<b>Aggregate Intrinsic Value</b>
Outstanding at July 29, 2007	243,751	7.3 years	\$3,447

#### **NOTE 6 - LEASE LIABILITIES RELATED TO RESTRUCTURING**

Since 2001, the Company has closed manufacturing facilities in North America and in Europe due in part to the migration of semiconductor manufacturing to Asia, excess capacity, competitive pricing pressures and weakened demand. Decisions regarding which facilities to close were based on sales volume projections, customer base and production qualifications. The Company continues to assess its global manufacturing strategy based on changes in market conditions. This ongoing assessment could result, in the future, in facilities closures, asset redeployment, workforce reductions, or the addition of increased manufacturing facilities, all of which would be predicated by market conditions and customer requirements.

In fiscal 2006, the Company recorded total restructuring charges of \$15.6 million primarily related to ceasing operations at its manufacturing and research and development facility in Austin, Texas. During the first quarter of 2007, the Company sold this facility for proceeds of \$5.0 million and realized a gain of \$2.3 million.

The following tables set forth the Company's restructuring reserves as of July 29, 2007 and July 30, 2006, respectively, and reflect the activity affecting the reserves for the three and nine months then ended. As of July 29, 2007, the remaining liability of \$1.8 million primarily represents non-cancelable lease obligations that are due under respective lease terms through 2009.

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**Three Months Ended  
July 29, 2007**

	<b>April 29, 2007</b>	<b>Charges</b>	<b>Utilized</b>	<b>July 29, 2007</b>
Leases and other	\$2,019	\$ -	\$(196)	\$1,823

**Nine Months Ended  
July 29, 2007**

	<b>October 29, 2006</b>	<b>Charges</b>	<b>Utilized</b>	<b>July 29, 2007</b>
Leases and other	\$2,654	\$ -	\$(831)	\$1,823

The following tables set forth the Company's restructuring reserve as of July 30, 2006 and reflects the activity affecting the reserve for the three and nine months then ended:

**Three Months Ended  
July 30, 2006**

	<b>April 30, 2006</b>	<b>Charges</b>	<b>Utilized</b>	<b>July 30, 2006</b>
Manufacturing capacity reduction and other	\$ 302	\$1,966	\$(1,967)	\$ 301
Workforce reductions	1,080	(176)	(604)	300
Leases and other	2,631	-	(246)	2,385
<b>Total</b>	<b>\$4,013</b>	<b>\$1,790</b>	<b>\$(2,817)</b>	<b>\$2,986</b>

**Nine Months Ended  
July 30, 2006**

	<b>October 30, 2005</b>	<b>Charges</b>	<b>Utilized</b>	<b>July 30, 2006</b>
Manufacturing capacity reduction and other	\$ -	\$10,681	\$(10,681)	\$ -
Workforce reductions	-	1,080	(780)	300
Leases and other	2,245	1,455	(1,014)	2,686
<b>Total</b>	<b>\$2,245</b>	<b>\$13,216</b>	<b>\$(12,475)</b>	<b>\$2,986</b>

## NOTE 7 - GEOGRAPHIC INFORMATION

The Company operates in a single industry 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. The Company's net sales, operating income (loss) and identifiable assets by geographic area as of and for the three and nine months ended July 29, 2007 and July 30, 2006 were as follows:

	Three Months Ended		Nine Months Ended	
	July 29, 2007	July 30, 2006	July 29, 2007	July 30, 2006
<b>Net sales</b>				
Asia	\$ 60,469	\$ 59,187	\$183,074	\$185,748
Europe	16,849	20,017	55,338	59,829
North America	26,983	28,956	81,496	94,002
	<u>\$104,301</u>	<u>\$108,160</u>	<u>\$319,908</u>	<u>\$339,579</u>
<b>Operating income (loss)</b>				
Asia	\$3,524	\$8,797	\$12,849	\$36,644
Europe	(148)	3,781	4,394	12,897
North America	832	(1,424)	4,383	(6,760)
Gain on sale of facility	-	-	2,254	-
Consolidation, restructuring and related charges	-	(1,790)	-	(13,216)
Stock-based compensation	(782)	(515)	(2,269)	(1,310)
	<u>\$3,426</u>	<u>\$8,849</u>	<u>\$21,611</u>	<u>\$28,255</u>
		<u>July 29, 2007</u>	<u>July 30, 2006</u>	
<b>Total identifiable assets</b>				
Asia		\$479,231	\$ 449,910	
Europe		111,776	112,400	
North America		396,335	456,425	
		<u>\$987,342</u>	<u>\$1,018,735</u>	

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

## NOTE 8 - INCOME TAXES

The income tax provision differs from the amount computed by applying the United States statutory rate of 35 percent to income before income taxes primarily due to the resolution and settlement of U.S. and foreign tax matters that were associated with uncertain tax positions in prior years. The income tax provision for the nine month period ended July 29, 2007 reflects a benefit for the resolution in the amount of \$7.4 million. In addition, the Company has benefited from reduced tax rates in Korea and Taiwan, which have been offset by valuation allowances placed on deferred tax assets, primarily those generated by net operating loss carry forwards.

## NOTE 9 - LONG -TERM BORROWINGS

Long-term borrowings consist of the following:

	<u>July 29, 2007</u>	<u>October 29, 2006</u>
2.25% convertible subordinated notes due April 15, 2008	\$150,000	\$150,000
Unsecured foreign notes payable, bearing interest at a variable rate, as defined, due October 11, 2010	24,608	20,288
4.75% convertible subordinated notes, including fair value adjustment of \$(184) in 2006	-	86,903
	<u>174,608</u>	<u>257,191</u>
Less current portion	25,000	86,903
	<u>\$149,608</u>	<u>\$170,288</u>

On June 6, 2007, the Company entered into a credit agreement with a group of financial institutions that provides for a five-year, revolving credit facility (the "credit facility") with an aggregate commitment of \$125 million. In connection therewith, the Company has classified \$125 million of its \$150 million, 2.25% convertible subordinated notes due in April 2008 as long-term. On September 4, 2007, the aggregate commitment was increased to \$155 million. The applicable interest rate spread and facility fee vary based upon the Company's senior leverage ratio. Under the terms of the credit facility, the Company is subject to compliance with certain financial and other covenants. The credit facility is secured by a pledge of the Company's stock in certain of its subsidiaries. Borrowings under the credit facility bear interest at a LIBOR rate, as defined, plus 87 basis points. There were no borrowings under the credit facility as of July 29, 2007.

The 4.75% convertible subordinated notes were repaid at maturity on December 15, 2006. A related interest rate swap also matured on December 15, 2006 concurrent with the repayment of the related debt.

#### **NOTE 10 - COMMITMENTS AND CONTINGENCIES**

At July 29, 2007, the Company had commitments outstanding of approximately \$205 million, primarily related to capital equipment for the planned U.S. nanofab facility and equipment in Korea, and for a build-to-suit capital lease through 2012 for the planned U.S. nanofab facility.

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 11 - RECENT ACCOUNTING PRONOUNCEMENTS**

In February 2007, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities-Including an Amendment of FASB Statement No. 115." SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value, and is effective as of the beginning of an entity's first fiscal year that begins after November 15, 2007. The Company is currently evaluating the impact that the adoption of SFAS No. 159 will have on its consolidated financial statements.

In October 2006, the FASB issued SFAS No. 158, "Employer's Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106 and 132(R)." SFAS No. 158 requires companies to recognize in its statement of financial condition the funded status of its defined benefit postretirement plans, measured as the difference between the fair value of the plan assets and the benefit obligation. SFAS No. 158 also requires an entity to recognize changes in the funded status of its defined benefit postretirement plan directly to

accumulated other comprehensive income, net of tax, to the extent such changes are not recognized in earnings as components of periodic net benefit cost. SFAS No. 158 is effective for companies with fiscal years ending after December 15, 2006. The Company is currently evaluating SFAS No. 158, however it does not believe the impact of its adoption will be material to its consolidated financial statements.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements." SFAS No. 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles, and expands disclosures about

fair value measurements. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. The Company is currently evaluating the impact, if any, that SFAS No. 157 may have on its consolidated financial statements.

In September 2006, the United States Securities and Exchange Commission (SEC) issued Staff Accounting Bulletin (SAB) No. 108, "Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements" (SAB No. 108). The Company early adopted SAB No. 108 during its quarter ended January 28, 2007, and its adoption did not have a material impact on its consolidated financial statements.

In June 2006, the FASB issued FASB Interpretation Number 48 (FIN 48), "Accounting for Uncertainty in Income Taxes - an Interpretation of FASB Statement No. 109." The interpretation contains a two step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The provisions are effective as of the beginning of the Company's 2008 fiscal year. The Company is evaluating the impact, if any, this statement may have on its consolidated financial statements.

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

### **Overview**

Management's discussion and analysis of the Company's financial condition, business results and outlook should be read in conjunction with its condensed consolidated financial statements and related notes. Various segments of this MD&A do 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 the Company's Annual Report on Form 10-K for the fiscal 2006 year, leading actual results to materially differ from these expectations.

The Company sells substantially all of its photomasks to semiconductor designers and manufacturers, and manufacturers of flat panel displays (FPDs). Photomask technology is also being applied to the fabrication of other higher performance electronic products such as photonics, micro-electronic mechanical systems and certain nanotechnology applications. 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 integrated circuits (ICs), a reduction in design complexity or other changes in the technology or methods of manufacturing 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 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.

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### **Material Changes in Results of Operations Three and Nine Months ended July 29, 2007 versus July 30, 2006**

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

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>July 29, 2007</b>	<b>July 30, 2006</b>	<b>July 29, 2007</b>	<b>July 30, 2006</b>
Net sales	100.0%	100.0%	100.0%	100.0%
Cost of sales	(77.3)	(69.6)	(75.1)	(67.3)
Gross margin	22.7	30.4	24.9	32.7
Selling, general and administrative expenses	(15.3)	(14.4)	(14.7)	(13.7)
Research and development expenses	(4.1)	(6.2)	(4.1)	(6.8)
Consolidation, restructuring and related charges	-	(1.6)	-	(3.9)
Gain on sale of facility	-	-	0.7	-

Operating income	3.3	8.2	6.8	8.3
Other income (expense), net	0.8	(1.2)	0.3	1.3
Income before income taxes and minority interest	4.1	7.0	7.1	9.6
Income tax benefit (provision)	(1.1)	(1.6)	1.2	(2.7)
Minority interest	(0.9)	(1.2)	(0.7)	(1.1)
Net income	2.1%	4.2%	7.6%	5.8%

All of the following tabular comparisons, unless otherwise indicated, are for the three months ended July 29, 2007 (Q3-07) and July 30, 2006 (Q3-06) and for the nine months ended July 29, 2007 (YTD-07) and July 30, 2006 (YTD-06) in millions of dollars:

### Net Sales

	Three Months Ended			Nine Months Ended		
	Q3-07	Q3-06	Percent Change	YTD-07	YTD-06	Percent Change
IC	\$ 85.3	\$ 87.2	(2.1)%	\$259.2	\$264.6	(1.9)%
FPD	19.0	21.0	(9.7)	60.7	75.0	(19.4)
Total net sales	\$104.3	\$108.2	(3.6)%	\$319.9	\$339.6	(5.8)%

Net sales for Q3-07 decreased 3.6% to \$104.3 million as compared to \$108.2 million for Q3-06. The decrease is related to reduced sales of FPD photomasks of \$2.0 million associated with decreased average selling prices (ASPs) for high-end FPD photomasks; and reduced sales of IC photomasks of \$1.9 million as a result of a slight decline in ASPs, principally from mainstream products. High-end photomask applications, which typically have higher ASPs, include mask sets for FPD products using G6 and above technologies and IC products using 90 nanometer and below technologies. By geographic area, net sales in Q3-07 as compared to Q3-06 increased by \$1.3 million or 2.1% in Asia, and decreased by \$(2.0) million or (6.8)% in North America, and \$(3.2) million or (15.8)% in Europe. As a percent of total sales in Q3-07, sales were 58% in Asia, 26% in North America, and 16% in Europe.

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For YTD-07, net sales decreased (5.8)% or \$(19.7) million of which \$(14.3) million of the decrease related to reduced sales of FPD photomasks and \$(5.4) million of reduced sales of IC photomasks, both of which were a result of decreased ASPs. The Company's quarterly revenues can be affected by the seasonal purchasing of its customers. The Company is typically impacted during its first quarter by the North American and European holiday periods as some customers reduce their effective workdays and orders during this period. Q1-07 had more than the usual customer shutdowns which resulted in reduced net sales.

### Gross Margin

	Three Months Ended			Nine Months Ended		
	Q3-07	Q3-06	Percent Change	YTD-07	YTD-06	Percent Change
Gross margin	\$23.7	\$32.9	(28.0)%	\$79.6	\$110.9	(28.0)%
Percentage of net sales	22.7%	30.4%		24.9%	32.7%	

Gross margin decreased to 22.7% in Q3-07 from 30.4% in Q2-06 as a result of decreased sales and the expanded manufacturing base in Asia including two greenfield facilities in Taiwan and China, and from reduced high-end sales and reduced ASPs. Gross margin decreased to 24.9% in YTD-07 from 32.7% in YTD-06 primarily due to decreased FPD ASPs and the Company's increased manufacturing base in Asia. 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. The gross margin percentage throughout the remainder of fiscal 2007 could be negatively impacted by increased depreciation expense associated with the Company's capital expenditures as the Company increases its fixed cost manufacturing base, principally in Asia.

### ***Selling, General and Administrative***

	<b>Three Months Ended</b>			<b>Nine Months Ended</b>		
	<b>Q3-07</b>	<b>Q3-06</b>	<b>Percent Change</b>	<b>YTD-07</b>	<b>YTD-06</b>	<b>Percent Change</b>
Selling, general and administrative expenses	\$16.0	\$15.5	3.3%	\$46.9	\$46.4	1.0%
Percentage of net sales	15.3%	14.4%		14.7%	13.7%	

Selling, general and administrative expenses increased \$0.5 million to \$16.0 million in Q3-07, compared with \$15.5 million in Q3-06. The increase was primarily a result of increased costs associated with starting up the Company's NanoFab in Boise, Idaho. Selling, general, and administrative expenses were \$46.9 million in YTD-07 and \$46.4 million in YTD-06. The Company's two new facilities in Taiwan and China became operational by Q2-07, and therefore certain costs related thereto are reported as cost of sales whereas prior to them becoming operational for production such costs were reported as selling, general and administrative expenses.

### ***Research and Development***

	<b>Three Months Ended</b>			<b>Nine Months Ended</b>		
	<b>Q3-07</b>	<b>Q3-06</b>	<b>Percent Change</b>	<b>YTD-07</b>	<b>YTD-06</b>	<b>Percent Change</b>
Research and development	\$4.2	\$6.7	(37.1)%	\$13.3	\$23.0	(42.2)%
Percentage of net sales	4.1%	6.2%		4.1%	6.8%	

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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 \$2.5 million and \$9.7 million in Q3-07 and YTD-07, respectively, as compared to the same periods in the prior year, primarily as a result of reduced expenditures resulting from the 2006 closure of the Company's Austin, Texas research and development operations. Such reduced expenditures were partially offset by amortization expenses of the fair value of the agreement to license technology from Micron Technology, Inc.

### ***Gain on Sale of Facility***

In January of 2007, the Company sold its Austin, Texas manufacturing and research and development facility for proceeds of \$5.0 million and realized a gain of \$2.3 million.

### ***Consolidation, Restructuring and Related Charges***

In March 2006, the Company implemented a restructuring program to streamline its operating infrastructure in North America, including the closing of its Austin, Texas manufacturing facility and ceasing its Austin, Texas research and development activities. In connection therewith, the Company recorded restructure charges of \$1.8 million in Q3-06 and \$13.2 million in YTD-06, primarily comprised of facility and equipment impairments at the Austin facility.

### ***Other Income (Expense), Net***

<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
<b>Q3-07</b>	<b>Q3-06</b>	<b>YTD-07</b>	<b>YTD-06</b>



Interest expense	\$ (1.5)	\$ (3.0)	\$ (4.5)	\$ (9.0)
Investment and other income, net	2.4	1.7	5.5	13.3
Other income (expense), net	\$ 0.9	\$ (1.3)	\$ 1.0	\$ 4.3

Interest expense in Q3-07 and YTD-07 decreased as compared to the same periods in the prior year, primarily as a result of the Company's redeeming the remaining outstanding balance of its \$87.1 million, 4.75% convertible subordinated notes in December, 2006. Investment and other income, net, for Q3-07 as compared to Q3-06, increased primarily as a result of increased foreign currency gains which more than offset decreased investment income associated with reduced investment balances. Investment and other income net, for YTD-07, decreased as compared to YTD-06, primarily due to reduced foreign currency gains and reduced investment income associated with reduced investment balances. Further, realized gains on the sales of investments and other assets were \$1.1 million YTD-07 as compared to \$3.0 million in YTD-06.

### ***Provision for Income Taxes***

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>Q3-07</b>	<b>Q3-06</b>	<b>YTD-07</b>	<b>YTD-06</b>
Income tax (provision) benefit	\$ (1.1)	\$ (1.7)	\$ 4.0	\$ (9.3)
Effective income tax rate	(26.2)%	(22.3)%	17.5%	(28.6)%

The provision for income taxes for Q3-07 was \$1.1 million, compared to \$1.7 million for Q3-06. For YTD-07 the provision for income taxes was a benefit of \$4.0 million, compared to a provision of \$9.3 million for YTD-06. The effective rate for YTD-07 was a 17.5% benefit as compared to a 28.6% provision for YTD-06, primarily due to the benefit that was recorded for the resolution and settlement of U.S. and foreign tax matters that were associated with uncertain tax positions in prior years. In addition, the tax rate was impacted by taxes incurred on income generated in taxable jurisdictions that were partially offset by increased income generated in the U.S. where the Company did not record additional deferred tax benefits due to net operating loss carryforwards. The income tax benefit for the nine month period ended July 29, 2007 primarily resulted from benefits associated with the tax settlements.

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The Company's operations have followed the migration of semiconductor industry fabrication to Asia, where the Company operates in countries where it is accorded favorable tax rates. The Company is accorded tax holidays in Taiwan, one of which expired in December 2006, and another which is expected to begin to expire in 2012. In addition, the Company has been accorded a tax holiday in China which is expected to expire in 2011. In Korea and Taiwan various tax credits have been utilized to reduce the Company's effective income tax rate.

### ***Minority Interest in Consolidated Subsidiaries***

Minority interest expense decreased to \$0.9 million in Q3-07 as compared to \$1.3 million in Q3-06, and to \$2.4 million in YTD-07, as compared to \$3.7 million in YTD-06, primarily due to decreased net income of the Company's non-wholly owned subsidiary in Taiwan. The Company's ownership in its subsidiaries in Taiwan and Korea was approximately 58% and 99.7%, respectively, at July 29, 2007 and July 30, 2006.

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

The Company's working capital was \$124.1 million at July 29, 2007 and \$127.7 million at October 29, 2006. At July 29, 2007, \$125 million of the Company's outstanding \$150 million, 2.25% convertible subordinated notes due in April of 2008, was reported as long-term in connection with \$125 million of credit available to the Company under a five-year, revolving credit facility agreement entered into on June 6, 2007 with a group of financial institutions. On September 4, 2007, the aggregate commitment was increased to \$150 million. Cash, cash equivalents and short-term investments decreased to \$145.2 million at July 29, 2007 as compared to \$199.3 million at October 29, 2006, primarily due to the redemption of \$87.1 million of the remaining outstanding balance of the Company's 4.75% convertible subordinated notes. Cash provided by operating activities increased to \$94.1 million for the nine months ended July 29, 2007, as compared to \$79.9 million for the nine months ended July 30, 2006, primarily due to increased net income compared to the same prior year period, and decreased accounts receivable associated with decreased sales compared to the same period in the prior year, and increased trade accounts payable, which were in part offset by decreases in accrued liabilities. Cash used in investing activities for the nine months ended July 29, 2007 was \$9.4 million, which is primarily comprised of \$48.3 million proceeds from the sales of investments less payments for capital expenditures of \$57.0 million. Cash

used in financing activities of \$92.1 million primarily related to the Company redeeming its \$87.1 million outstanding 4.75% convertible subordinated notes.

The Company's commitments represent investments in the tooling of the new US Nano Fab facility in Boise, Idaho, additional manufacturing capacity, as well as advanced equipment for the production of high-end, more complex photomasks in Asia, principally Korea. At July 29, 2007, the Company had commitments outstanding of approximately \$205 million, primarily related to equipment for the planned U.S. nanofab facility and equipment in Korea, and for a build-to-suit capital lease through 2012 for the planned U.S. nanofab facility. The Company expects capital expenditures for fiscal 2007 to be approximately \$160 million to \$175 million. The Company will use its working capital and its credit facility to finance its capital expenditures. Photonics believes that its currently available resources, together with its capacity for growth, and its access to other debt and equity financing sources, are sufficient to satisfy its currently planned capital expenditures, as well as its anticipated working capital requirements for the foreseeable future. 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 and existing cash, short-term investments and its credit facility.

### **Stock-Based Compensation**

Total stock-based compensation expense for the three and nine months ended July 29, 2007 was \$0.8 million and \$2.3 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 July 29, 2007 total unrecognized compensation cost of \$7.8 million is expected to be recognized over a weighted average amortization period of 2.4 years.

### **Business Outlook**

A majority of the Company's revenue growth has come from, and is expected to continue 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 from North America and Europe as a result of utilizing technology licensed

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under the Company's technology license with Micron Technology, Inc. The Company's Korean and Taiwanese operations are non-wholly owned subsidiaries; therefore a portion of earnings generated at each location is allocated to the minority shareholders.

The Company continues to assess its global manufacturing strategy based on changes in market conditions. In addition to the restructuring plan implemented in the second quarter of 2006 relating to closing the Austin facility, this ongoing assessment could result in the future, in facilities closures, asset redeployment, workforce reductions, or the addition of increased manufacturing facilities, all of which would be based on market conditions and customer requirements.

The Company's future results of operations and the other forward-looking statements contained in this filing involve a number of risks and uncertainties. Various factors that have been discussed and a number of other factors could cause actual results to differ materially from the Company's expectations.

### **Application of Critical Accounting Procedures**

The Company's consolidated financial statements are based on the selection and application of significant accounting policies, which require management to make significant estimates and assumptions. The Company believes that the following are some of the more critical judgment areas in the application of the Company's accounting policies that affect its financial condition and results of operations.

#### *Estimates and Assumptions*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect amounts reported in them. Management bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. The Company's estimates are based on the facts and circumstances available at the time; different reasonable estimates could have been used in the current period, and changes in the accounting estimates used are likely to occur from period to period, which may have a material impact on the presentation of the Company's financial condition and results of operations. Actual results reported by the Company may differ from such estimates. The Company reviews these estimates periodically and reflects the effect of revisions in the period that they are determined.

#### *Derivative Instruments and Hedging Activities*

The Company records derivatives in the consolidated balance sheet as assets or liabilities, measured at fair value. Gains or losses resulting from changes in the values of those derivatives are reported in the consolidated statements of income or as accumulated other comprehensive income (loss), 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, the derivative must be highly effective in achieving offsetting changes in fair value or cash flows of the hedged items during the term of the hedge. The Company uses judgment in assessing the fair value of derivatives and related financial instruments, including assumptions utilized in derivative fair value models in areas such as projected interest rates and changes in the Company's stock price during the contract term.

### *Property, Plant and Equipment*

Property, plant and equipment are stated at cost less accumulated depreciation and amortization. Repairs and maintenance, as well as renewals and replacements of a routine nature are charged to operations as incurred, while those which improve or extend the lives of existing assets are capitalized. Upon sale or other disposition, the cost of the asset and accumulated depreciation are removed from the accounts, and any resulting gain or loss is reflected in operations.

Depreciation and amortization are computed on the straight-line method over the estimated useful lives of the related assets. Buildings and improvements are depreciated over 15 to 40 years, machinery and equipment over 3 to 10 years and furniture, fixtures and office equipment over 3 to 5 years. Leasehold improvements are amortized over the life of the lease or the estimated useful life of the improvement, whichever is less. Judgment and assumptions are used in establishing estimated useful lives and depreciation periods. The Company also uses judgment and assumptions as it periodically reviews property, plant and equipment for any potential impairment in carrying values whenever events such as a significant industry downturn, plant closures, technological obsolescence or other changes in circumstances indicate that their carrying amount may not be recoverable. Actual fair values may differ from estimated fair values.

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### *Intangible Assets*

Intangible assets consist primarily of goodwill and other acquisition-related intangibles, and a technology license agreement and a supply agreement. These assets are stated at fair value as of the date acquired less accumulated amortization. Amortization is calculated on a straight-line basis or another method that more fairly represents the utilization of the assets. The future economic benefit of the carrying value of intangible assets is reviewed annually and the Company uses judgment whenever events or changes in circumstances indicate the carrying value of an intangible asset may not be recoverable based on discounted cash flows or market factors and an impairment loss would be recorded in the period so determined.

### *Impairment of Long-Lived Assets*

Long-lived assets and certain identifiable assets to be held and used are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Determination of recoverability is based on the Company's judgment and estimate of undiscounted future cash flows resulting from the use of the asset and its eventual disposition. Measurement of an impairment loss for long-lived assets and certain identifiable intangible assets that management expects to hold and use is based on the fair value of the asset. Long-lived assets and certain identifiable intangible assets to be disposed of are reported at the lower of carrying amount or fair value less costs to sell.

### *Investment in Joint Venture*

Investments in joint ventures over which the Company has the ability to exercise significant influence and that, in general, are at least 20 percent owned are stated at cost plus equity in undistributed net income (loss) of the joint venture. These investments are evaluated for impairment in accordance with the requirements of Accounting Principles Board (APB) Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock." An impairment loss would be recorded whenever a decline in value of an equity investment below its carrying amount is determined to be other than temporary. In judging "other than temporary," the Company would consider the length of time and extent to which the fair value of the investment has been less than the carrying amount of the equity company, the near-term and longer-term operating and financial prospects of the equity company, and its longer-term intent of retaining the investment in the equity company.

### *Income Taxes*

The income tax provision is computed on the basis of consolidated financial statement income or loss before income taxes. Deferred income taxes reflect the tax effects of differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. In the event the Company determines that future taxable income is not expected to be sufficient, the Company uses judgment and assumptions to determine if valuation allowances for deferred income tax assets are required by considering future market growth, forecasted operations, future taxable income, and the mix of earnings in the tax jurisdictions in which it operates in order to determine the need for a valuation allowance.

The Company considers income taxes in each of the tax jurisdictions in which it operates in order to determine its effective income tax rate. Current income tax exposure is identified along with assessing temporary differences resulting from differing treatment of items for tax and financial reporting purposes. These differences result in deferred tax assets and liabilities, which are included in the Company's consolidated balance sheets. The actual annual amount of taxable income in each tax jurisdiction may differ from the estimates used to compute the effective income tax rate during the first, second and third quarters. Additionally, the

Company evaluates the recoverability of deferred income tax assets from future taxable income and establishes valuation allowances if recovery is deemed not likely. Accordingly, the income tax provision in the consolidated statements of income is impacted by changes in the valuation allowance. Significant management estimates and judgment are required in determining any valuation allowance recorded against net deferred tax assets.

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### *Revenue Recognition*

The Company recognizes revenue when both title and risk of loss transfer to the customer. The Company makes estimates and assumptions and uses judgment relating to discounts and estimates for product return and warranties which are accrued and recognized at the time of sale.

Discounts - Sales discounts are negotiated with customers prior to billing and at the time of billing, sales invoices are prepared net of negotiated sales discounts.

Product Returns - Customer returns have historically been insignificant. However, the Company does record a liability for the insignificant amount of estimated sales returns based upon historical experience.

Warranties and Other Post Shipment Obligations - For a 30-day period, the Company warrants that items sold will conform to customer specification. However, the Company's liability is limited to repair or replacement of the photomasks at its sole option. The Company inspects photomasks for conformity to customer specifications prior to shipment. Accordingly, customer returns of items under warranty have historically been insignificant. However, the Company records a liability for the insignificant amount of estimated warranty returns based on historical experience. The Company's specific return policies include accepting returns for products with defects or products that have not been produced to precise customer specifications. At the time of shipment, a liability is established for these items.

Customer Acceptance - Customer acceptance occurs concurrently with the transfer of title and risk of loss based upon the applicable shipping and delivery terms.

### **Effect of New Accounting Standards**

In February 2007, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities - Including an Amendment of FASB Statement No. 115." SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value, and is effective as of the beginning of an entity's first fiscal year that begins after November 15, 2007. The Company is currently evaluating the impact that the adoption of SFAS No. 159 will have on its consolidated financial statements.

In October 2006, the FASB issued SFAS No. 158, "Employer's Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106 and 132(R)." SFAS No. 158 requires companies to recognize in its statement of financial condition the funded status of its defined benefit postretirement plans, measured as the difference between the fair value of the plan assets and the benefit obligation. SFAS No. 158 also requires an entity to recognize changes in the funded status of its defined benefit postretirement plan directly to accumulated other comprehensive income, net of tax, to the extent such changes are not recognized in earnings as components of periodic net benefit cost. SFAS No. 158 is effective for companies with fiscal years ending after December 15, 2006. The Company is currently evaluating SFAS No. 158, however it does not believe the impact of its adoption will be material to its consolidated financial statements.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements." SFAS No. 157 defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles, and expands disclosures about fair value measurements. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. The Company is currently evaluating the impact, if any, that SFAS No. 157 may have on its consolidated financial statements.

In September 2006, the United States Securities and Exchange Commission (SEC) issued Staff Accounting Bulletin (SAB) No. 108, "Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements" (SAB No. 108). This SAB provides guidance on the consideration of the effects of prior year misstatements in quantifying current year misstatements for the purpose of a materiality assessment. The Company early adopted SAB No. 108 during its quarter ended January 28, 2007, and its adoption did not have a material impact on its consolidated financial statements.

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In June 2006, the FASB issued FASB Interpretation Number 48 (FIN 48), "Accounting for Uncertainty in Income Taxes - an Interpretation of FASB Statement No. 109." The interpretation contains a two step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The provisions are effective as of the beginning of the Company's 2008 fiscal year. The Company is evaluating the impact, if any, this statement may have on its consolidated financial statements.

### **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 statement of income, or as accumulated other comprehensive income (loss), 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, the derivative must be highly effective in achieving offsetting changes in fair value or cash flows of the hedged items during the term 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 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 sales, operating margins and retained earnings. The principal functional currencies of the Company's Asian subsidiaries are the Korean won, New Taiwan dollar and Singapore dollar. The principal functional currencies of the Company's European subsidiaries are the British pound and euro.

The Company attempts to minimize its risk to foreign currency transaction losses by producing its products in the same country in which the products are sold and thereby generating revenues and incurring expenses in the same currency and by managing its working capital. However, there can be no assurance that this approach will be successful, especially in the event of a significant adverse movement in the value of any foreign currencies against the U.S. dollar. In some instances, the Company may sell products in a currency other than the functional currency of the country where it was produced. The Company does not engage in purchasing forward exchange contracts for speculative purposes.

The Company's primary net foreign currency exposures as of July 29, 2007 included the Korean won, Singapore dollar, New Taiwan dollar, euro, British pound and Chinese renminbi. As of July 29, 2007, 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 \$4.3 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, 2006, the Company's Korean subsidiary entered into a foreign currency rate swap contract. Under the terms of the contract, the Company has effectively converted a \$50 million interest bearing intercompany loan denominated in U.S. dollars to Korean won. This contract was initially scheduled to expire in December 2006, however, it has been extended to December 2007. The Company elected not to designate the foreign currency rate swap contract as a hedge which results in a market-to-market adjustment in the income statement.

In September, 2006, the Company entered into forward contracts to convert the fixed yen purchase price of certain equipment into fixed U.S. dollar amounts. In accordance with SFAS No. 133, "Accounting for Derivatives and Hedging Activities," hedges related to anticipated transactions are designated and documented at the inception of the respective hedges as cash flow and are evaluated for effectiveness. The Company records these derivative instruments in either other current assets or non current assets or accrued liabilities, depending on their net position, at fair value regardless of the purpose or intent for holding the instrument. Changes in the fair value of the derivative financial instrument are recognized in earnings or in shareholders equity as a component of accumulated other comprehensive income or loss depending on whether the derivative financial instrument qualifies for hedge accounting as defined by SFAS No. 133.

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#### **Interest Rate Risk**

The majority of the Company's borrowings at July 29, 2007 were in the form of its convertible subordinated note, which bears interest at a fixed rate of 2.25%, and certain unsecured international notes payable which bear interest at rates between 6.57% and 6.93%. At July 29, 2007, the Company had approximately \$105 million in net variable rate financial instrument assets which were

sensitive to interest rate risk. A 10% change in interest rates would not have a material effect on the Company's consolidated financial position, results of operations or cash flows.

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

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

An evaluation was carried out under the supervision and with the participation of the Company's management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Act of 1934) as of July 29, 2007, the end of the period covered by this report. Based upon that evaluation, the Company's Chief Executive Officer and Chief Financial Officer have concluded that, as of July 29, 2007, the end of the period covered by this report, the Company's disclosure controls and procedures were effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms.

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

There was no change in the Company's internal control over financial reporting during the three months ended July 29, 2007 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. RISKS RELATING TO THE COMPANY'S BUSINESS**

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 October 29, 2006.

##### **Item 5. OTHER INFORMATION**

On August 23, 2007, Photronics Imaging Technologies (Shanghai) Co., Ltd. ("PITC") entered into an Amended and Restated RMB 186 million Credit Facility with JPMorgan Chase Bank (China) Company Limited, Shanghai Branch as Administrative Agent (the "Original Lender"). Pursuant to the Amended and Restated Credit Agreement, the Original Lender will retain a portion of, and will assign to the other lenders the remaining portion of the loans and commitments under the Amended and Restated Credit Agreement. This credit facility includes a term loan and a revolving credit loan totaling RMB 186,000 million, bearing interest based on the prevailing official PBOC (People's Bank of China) rate. As of August 23, 2007, RMB 186 million was outstanding under the Amended and Restated Credit Agreement and is due in 2010. PITC is subject to compliance with and maintenance of certain financial and other covenants.

On August 23, 2007, the Company entered into an Amended and Restated Guarantee Agreement relating to the RMB 186 million credit facility for PITC. Pursuant to the terms of the Amended and Restated Guarantee Agreement, the Company guaranteed PITC's obligations under the Amended and Restated Credit Agreement.

On September 4, 2007 the aggregate commitment of the Company's credit facility was increased to \$155 million as set forth in Note 9 to the condensed consolidated financial statements.

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#### **Item 6. EXHIBITS**

##### **(a) Exhibits**

<b>Exhibit Number</b>	<b>Description</b>
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10.27	Credit Agreement dated as of August 6, 2007 among Photronics, Inc., the Foreign Subsidiary Borrowers Party hereto, the Lenders Party hereto, and
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- JPMorgan Chase Bank, National Association as Administrative Agent and Collateral Agent; Citizens Bank of Massachusetts; HSBC Bank USA, National Association; and Citibank, N.A. as Co-Syndication Agents.  
JPMorgan Securities Inc. as Sole Book runner and Sole Lead Arranger.
- 10.28 Amended and Restated Agreement RMB 186,000,000 Credit Facility for Photronics Imaging Technologies (Shanghai) Co., Ltd. with JPMorgan Chase Bank (China) Company Limited, Shanghai Branch as Administrative Agent.
- 10.29 Amended and Restated Guarantee Agreement by Photronics, Inc. relating to RMB 186,000,000 Credit Facility for Photronics Imaging Technologies (Shanghai) Co., Ltd.
- 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: September 5, 2007

**JPMorgan**

## CREDIT AGREEMENT

dated as of

June 6, 2007

among

PHOTRONICS, INC.

The Foreign Subsidiary Borrowers Party Hereto

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION  
as Administrative Agent and Collateral AgentCITIZENS BANK OF MASSACHUSETTS, HSBC BANK USA, NATIONAL ASSOCIATION  
and CITIBANK, N.A.  
as Co-Syndication Agents\_\_\_\_\_  
J.P. MORGAN SECURITIES INC.,  
as Sole Bookrunner and Sole Lead Arranger

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Exhibit F-2	-- Form of Borrowing Subsidiary Termination
Exhibit G	-- Form of Subsidiary Guaranty
Exhibit H	-- Form of Pledge Agreement
Exhibit I	-- Form of Intercreditor Agreement

CREDIT AGREEMENT dated as of June 6, 2007 among PHOTRONICS, INC., the FOREIGN SUBSIDIARY BORROWERS from time to time party hereto, the LENDERS from time to time party hereto, CITIZENS BANK OF MASSACHUSETTS, HSBC BANK USA, NATIONAL ASSOCIATION and CITIBANK, N.A. as Co-Syndication Agents and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as Administrative Agent and Collateral Agent.

The parties hereto agree as follows:

ARTICLE I

Definitions

Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“ABR”, when used in reference to any Loan or Borrowing, refers to a Loan, or the Loans comprising such Borrowing, bearing interest at a rate determined by reference to the Alternate Base Rate.

“Adjusted LIBO Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the sum of (i) (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate plus, without duplication, (ii) in the case of Loans by a Lender from its office or branch in the United Kingdom, the Mandatory Cost.

“Administrative Agent” means JPMorgan Chase Bank, National Association, in its capacity as administrative agent for the Lenders hereunder.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affected Foreign Subsidiary” means any Foreign Subsidiary to the extent such Foreign Subsidiary acting as a Subsidiary Guarantor would cause a Deemed Dividend Problem.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agents” means the Administrative Agent and the Collateral Agent.

“Aggregate Commitment” means the aggregate of the Commitments of all of the Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Commitment is \$125,000,000.

“Agreed Currencies” means (i) Dollars and (ii) any Foreign Currency agreed to by the Administrative Agent and each of the Lenders.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds

Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

“Applicable Pledge Percentage” means 100% but 65% in the case of a pledge by the Company or any Domestic Subsidiary of its Equity Interests in an Affected Foreign Subsidiary.

“Applicable Percentage” means, with respect to any Lender, the percentage of the Aggregate Commitment represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“Applicable Rate” means, for any day, with respect to any Eurocurrency Revolving Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Eurocurrency Spread”, “ABR Spread” or “Commitment Fee Rate”, as the case may be, based upon the Senior Leverage Ratio applicable on such date:

	<u>Senior Leverage Ratio:</u>	<u>Eurocurrency Spread</u>	<u>ABR Spread</u>	<u>Commitment Fee Rate</u>
<u>Category 1:</u>	≤ 0.75 to 1.00	0.875%	0%	0.175%
<u>Category 2:</u>	> 0.75 to 1.00 but ≤ 1.00 to 1.00	1.075%	0.075%	0.200%
<u>Category 3:</u>	> 1.00 to 1.00	1.250%	0.250%	0.225%

For purposes of the foregoing,

(i) if at any time the Company fails to deliver the Financials on or before the date the Financials are due, Category 3 shall be deemed applicable for the period commencing five (5) Business Days after the required date of delivery and ending on the date which is five (5) Business Days after the Financials are actually delivered, after which the Category shall be determined in accordance with the table above as applicable;

(ii) adjustments, if any, to the Category then in effect shall be effective five (5) Business Days after the Administrative Agent has received the applicable Financials (it being understood and agreed that each change in Category shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change); and

(iii) notwithstanding the foregoing, Category 1 shall be deemed to be applicable until the Administrative Agent's receipt of the applicable Financials for the Company's first fiscal quarter ending after the Effective Date and adjustments to the Category then in effect shall thereafter be effected in accordance with the preceding paragraphs.

"Approved Fund" has the meaning assigned to such term in Section 9.04.

"Approximate Equivalent Amount" of any currency with respect to any amount of Dollars shall mean the Equivalent Amount of such currency with respect to such amount of Dollars on or as of such date, rounded up to the nearest amount of such currency as determined by the Administrative Agent from time to time.

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"Assignment and Assumption" means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Augmenting Lender" has the meaning assigned to such term in Section 2.20.

"Availability Period" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"Available Revolving Commitment" means, at any time, the Aggregate Commitment then in effect *minus* the Revolving Credit Exposure (excluding, for the purpose of calculating the commitment fee under Section 2.12, the Swingline Exposure) of all Lenders at such time.

"Banking Services" means each and any of the following bank services provided to the Company or any Subsidiary by any Lender or any of its Affiliates: (a) commercial credit cards, (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

"Banking Services Obligations" means any and all obligations of the Company or any Subsidiary, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" means the Company or any Foreign Subsidiary Borrower.

"Borrowing" means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect or (b) a Swingline Loan.

"Borrowing Request" means a request by any Borrower for a Revolving Borrowing in accordance with Section 2.03.

"Borrowing Subsidiary Agreement" means a Borrowing Subsidiary Agreement substantially in the form of Exhibit F-1.

"Borrowing Subsidiary Termination" means a Borrowing Subsidiary Termination substantially in the form of Exhibit F-2.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Agreed Currencies in the London interbank market or the principal financial center of the country in which payment or purchase of such Agreed Currency can be made (and, if the Borrowings or LC Disbursements which are the subject of a borrowing, drawing, payment, reimbursement or rate selection are denominated in euro, the term "Business Day" shall also exclude any day on which the TARGET payment system is not open for the settlement of payments in euro).

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"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"Change in Control" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof), of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Company; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Company by Persons who were neither (i) nominated by the board of directors of the Company nor (ii) appointed by directors so nominated; or (c) the acquisition of direct or indirect Control of the Company by any Person or group; or (d) the occurrence of a change in control, or other similar provision, as defined in any agreement or instrument evidencing any Material Indebtedness (triggering a default or mandatory prepayment, which default or mandatory prepayment has not been waived in writing); or (e) the Company ceases to own, directly or indirectly, and Control 100% (other than directors' qualifying shares) of the ordinary voting and economic power of any Foreign Subsidiary Borrower, other than, to the extent such Subsidiaries are Foreign Subsidiary Borrowers, PKL, PSMC and Photronics China in respect of which the Company will continue to own and Control more than 50%.

"Change in Law" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or,

for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender's or the Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

“Chinese Credit Facility” means the RMB186,000,000 credit facility evidenced by that certain Amended and Restated Agreement by and among Photronics Imaging Technologies (Shanghai) Co., Ltd., JPMorgan Chase Bank, N.A., Shanghai Branch, as original lender and JPMorgan Chase Bank, N.A., Shanghai Branch as administrative agent.

“Chinese Credit Facility Documents” means the Chinese Credit Facility, the Chinese Credit Facility Guarantee, and the other instruments and documents related thereto.

“Chinese Credit Facility Guarantee” means the Amended and Restated Guarantee Agreement made by the Company in favor of JPMorgan Chase Bank, N.A., Shanghai Branch as administrative agent under the Chinese Facility, in respect of the Chinese Credit Facility Documents.

“Chinese Credit Facility Guarantee Obligations” means the Indebtedness and other obligations of the Company under the Chinese Credit Facility Guarantee, and includes without limitation the “Guaranteed Obligations” as defined in the Chinese Credit Facility Guarantee.

“Chinese Credit Facility Secured Parties” means the holders of the Chinese Credit Facility Guarantee Obligations from time to time and shall include their respective successors, transferees and assigns.

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“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral Agent” means JPMorgan Chase Bank, National Association in its capacity as Collateral Agent for the Holders of Secured Obligations and any successor Collateral Agent appointed pursuant to the terms of the Intercreditor Agreement.

“Commitment” means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced or terminated from time to time pursuant to Section 2.09, (b) increased from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable.

“Company” means Photronics, Inc., a Connecticut corporation.

“Computation Date” is defined in Section 2.04.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period, minus the aggregate amount of extraordinary, unusual or non-recurring income or gains for such period to the extent required to be separately stated in the Company's financial statements in accordance with GAAP, plus, without duplication and to the extent deducted from revenues in determining Consolidated Net Income for such period, the sum of (a) the aggregate amount of Consolidated Interest Expense for such period, plus (b) the aggregate amount of income tax expense for such period, plus (c) the aggregate amount of depreciation and amortization for such period, plus (d) non-cash expenses related to stock-based compensation, plus (e) any extraordinary or non-recurring non-cash expenses, write-downs, write-offs, or losses including impairment or restructuring charges, all as determined on a consolidated basis with respect to the Company and its consolidated Subsidiaries in accordance with GAAP, minus, to the extent included in determining Consolidated Net Income for such period, any cash payments made during such period in respect of items described in clauses (d) and (e) above subsequent to the fiscal quarter in which the relevant non-cash expense or loss was reflected in a statement of Consolidated Net Income. For the purposes of calculating Consolidated EBITDA for any period of four consecutive fiscal quarters (each, a “Reference Period”), (i) if at any time during such Reference Period the Company or any Subsidiary shall have made any Material Disposition, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period, and (ii) if during such Reference Period the Company or any Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. As used in this definition, “Material Acquisition” means any acquisition of property or series of related acquisitions of property that (a) constitutes (i) assets comprising all or substantially all or any significant portion of a business or operating unit of a business, or (ii) all or substantially all of the common stock or other Equity Interests of a Person, and (b) involves the payment of consideration by the Company and its Subsidiaries in excess of \$10,000,000; and “Material Disposition” means any sale, transfer or disposition of property or series of related sales, transfers, or dispositions of property that yields gross proceeds to the Company or any of its Subsidiaries in excess of \$10,000,000.

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“Consolidated Interest Expense” means, with reference to any period, the interest expense (including without limitation interest expense under Capital Lease Obligations that is treated as interest in accordance with GAAP) of the Company and its Subsidiaries calculated on a consolidated basis for such period with respect to (a) all outstanding Indebtedness of the Company and its Subsidiaries allocable to such period in accordance with GAAP and (b) Swap Agreements (including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers acceptance financing and net costs under interest rate Swap Agreements to the extent such net costs are allocable to such period in accordance with GAAP).

“Consolidated Net Income” means, with reference to any period, the net income (or loss) of the Company and its Subsidiaries calculated in accordance with GAAP on a consolidated basis (without duplication) for such period; provided that there shall be excluded (a) the income (or deficit) of any Person (other than a Subsidiary of the Company) in which the Company or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Company or such Subsidiary in the form of dividends or similar distributions and (b) the undistributed earnings of any Subsidiary of the

Company to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or any organizational or governing documents, any law, treaty, rule or regulation or any determination of an arbitrator or other Governmental Authority, in each case applicable to such Subsidiary. An example of the calculation of Consolidated EBITDA and Consolidated Net Income for the fiscal year ending October 29, 2006 and for the first two (2) fiscal quarters of 2007 is attached hereto as Schedule 1.01.

“Consolidated Senior Indebtedness” means at any time Consolidated Total Indebtedness minus the aggregate principal amount of Subordinated Indebtedness of the Company and its Subsidiaries calculated on a consolidated basis as of such time in accordance with GAAP.

“Consolidated Total Assets” means, as of the date of any determination thereof, total assets of the Company and its Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

“Consolidated Total Indebtedness” means at any time the sum, without duplication, of (a) the aggregate Indebtedness of the Company and its Subsidiaries calculated on a consolidated basis as of such time in accordance with GAAP, (b) the aggregate amount of Indebtedness of the Company and its Subsidiaries relating to the maximum drawing amount of all letters of credit outstanding and bankers acceptances and (c) Indebtedness of the type referred to in clauses (a) or (b) hereof of another Person guaranteed by the Company or any of its Subsidiaries.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Convertible Subordinated Note Indenture” means (i) the Indenture dated as of April 15, 2003 from the Company to The Bank of New York, as Trustee, as in effect on the Effective Date and (ii) any replacement or additional indenture, in each case as the same may from time to time be issued, amended, restated or otherwise modified as permitted herein and pursuant to the which the Company issued the Convertible Subordinated Notes.

“Convertible Subordinated Notes” means (i) the \$150,000,000 2<sup>1</sup>/<sub>4</sub>% Convertible Subordinated Notes due 2008, as in effect on the Effective Date and (ii) any other promissory notes issued pursuant to the Convertible Subordinated Note Indenture, in each case as the same may from time to time

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be issued, amended, restated or otherwise modified as permitted herein and as issued pursuant to the terms of the Convertible Subordinated Note Indenture.

“Co-Syndication Agent” means each of Citizens Bank of Massachusetts, HSBC Bank USA, National Association and Citibank, N.A. in its capacity as co-syndication agent for the credit facility evidenced by this Agreement.

“Country Risk Event” means:

(i) any law, action or failure to act by any Governmental Authority in any Borrower’s or Letter of Credit beneficiary’s country which has the effect of:

(a) changing the obligations under the relevant Letter of Credit, the Credit Agreement or any of the other Loan Documents as originally agreed or otherwise creating any additional liability, cost or expense to the Issuing Bank, the Lenders or the Administrative Agent,

(b) changing the ownership or control by such Borrower or Letter of Credit beneficiary of its business, or

(c) preventing or restricting the conversion into or transfer of the applicable Agreed Currency;

(ii) force majeure; or

(iii) any similar event

which, in relation to (i), (ii) and (iii), directly or indirectly, prevents or restricts the payment or transfer of any amounts owing under the relevant Letter of Credit or other Loan Documents in the applicable Agreed Currency into an account designated by the Administrative Agent or the Issuing Bank and freely available to the Administrative Agent or the Issuing Bank.

“Credit Event” means a Borrowing, the issuance of a Letter of Credit, an LC Disbursement or any of the foregoing.

“Deemed Dividend Problem” means, with respect to any Foreign Subsidiary, such Foreign Subsidiary’s accumulated and undistributed earnings and profits being deemed to be repatriated to the Company or the applicable parent Domestic Subsidiary under Section 956 of the Code or any successor or similar law and the effect of such repatriation causing or expected to cause adverse tax consequences in excess of \$1,000,000 in the aggregate to the Company or such parent Domestic Subsidiary, in each case as determined by the Company in its commercially reasonable judgment acting in good faith and in consultation with its legal and tax advisors.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Dollar Amount” of any currency at any date shall mean (i) the amount of such currency if such currency is Dollars or (ii) the equivalent in such currency of Dollars if such currency is a Foreign Currency, calculated on the basis of the Exchange Rate for such currency, on or as of the most recent Computation Date provided for in Section 2.04.

“Dollars” or “\$” refers to lawful money of the United States of America.

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“Domestic Subsidiary” means a Subsidiary organized under the laws of a jurisdiction located in the United States of America.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Eligible Foreign Subsidiary” means any Foreign Subsidiary that is approved from time to time by the Administrative Agent.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

“Equivalent Amount” of any currency with respect to any amount of Dollars at any date shall mean the equivalent in such currency of such amount of Dollars, calculated on the basis of the arithmetical mean of the buy and sell spot rates of exchange of the Administrative Agent for such other currency at 11:00 a.m., London time, on the date on or as of which such amount is to be determined.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Company or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Company or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Company or any of its ERISA Affiliates from any Plan or

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Multiemployer Plan; or (g) the receipt by the Company or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Company or any ERISA Affiliate of any notice, concerning the imposition upon the Company or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“EU” means the European Union.

“euro” and/or “EUR” means the single currency of the participating member states of the EU.

“Eurocurrency”, when used in reference to a currency means an Agreed Currency and when used in reference to any Loan or Borrowing, mean that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate.

“Eurocurrency Payment Office” of the Administrative Agent shall mean, for each Foreign Currency, the office, branch, affiliate or correspondent bank of the Administrative Agent for such currency as specified from time to time by the Administrative Agent to the Company and each Lender.

“Event of Default” has the meaning assigned to such term in Article VII.

“Exchange Rate” means, on any day, with respect to any Foreign Currency, the rate at which such Foreign Currency may be exchanged into Dollars, as set forth at approximately 11:00 a.m., Local Time, on such date on the Reuters World Currency Page for such Foreign Currency. In the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate with respect to such Foreign Currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Administrative Agent or, in the event no such service is selected, such Exchange Rate shall instead be calculated on the basis of the arithmetical mean of the buy and sell spot rates of exchange of the Administrative Agent for such Foreign Currency on the London market at 11:00 a.m., Local Time, on such date for the purchase of Dollars with such Foreign Currency, for delivery two Business Days later; provided, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent, after consultation with the Company, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, the Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Company hereunder, (a) income or franchise taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Company is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Company under Section 2.19(b)), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office) or is attributable to such Foreign Lender’s failure to comply with Section 2.17(e), except to the extent that such Foreign Lender

(or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Company with respect to such withholding tax pursuant to Section 2.17(a).

“Expansion Loan Amendment” has the meaning assigned to such term in Section 2.20.

“Expansion Term Loan” has the meaning assigned to such term in Section 2.20.

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“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Financial Officer” means the chief financial officer, any vice president of finance, principal accounting officer, treasurer or controller of the Company.

“Financials” means the annual or quarterly financial statements, and accompanying certificates and other documents, of the Company and its Subsidiaries required to be delivered pursuant to Section 5.01(a) or 5.01(b).

“First Tier Foreign Subsidiary” means each Material Subsidiary which is a Foreign Subsidiary and with respect to which any one or more of the Company and its Domestic Subsidiaries directly owns or controls more than 50% of such Foreign Subsidiary’s Equity Interests.

“Foreign Currencies” means Agreed Currencies other than Dollars.

“Foreign Currency LC Exposure” means, at any time, the sum of (a) the Dollar Amount of the aggregate undrawn and unexpired amount of all outstanding Foreign Currency Letters of Credit at such time plus (b) the aggregate principal Dollar Amount of all LC Disbursements in respect of Foreign Currency Letters of Credit that have not yet been reimbursed at such time.

“Foreign Currency Letter of Credit” means a Letter of Credit denominated in a Foreign Currency.

“Foreign Currency Sublimit” means \$50,000,000.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than that in which the Company is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“Foreign Subsidiary Borrower” means any Eligible Foreign Subsidiary that has been designated as a Foreign Subsidiary Borrower pursuant to Section 2.23 and that has not ceased to be a Foreign Subsidiary Borrower pursuant to such Section.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness

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or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Holders of Secured Obligations” means the Secured Parties and the Chinese Credit Facility Secured Parties.

“Increasing Lender” has the meaning assigned to such term in Section 2.20.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such



Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable and accrued expenses incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all obligations of such Person under any Swap Agreement or under any similar type of agreement and (l) obligations of such Person under Sale and Leaseback Transactions. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Information Memorandum” means the Confidential Information Memorandum dated May 2007 relating to the Company and the Transactions.

“Intercreditor Agreement” means that certain Intercreditor Agreement substantially in the form of Exhibit I and entered into by the Administrative Agent, the Collateral Agent and JPMorgan Chase Bank, N.A., Shanghai Branch, as administrative agent under the Chinese Credit Facility in connection with this Agreement and the Chinese Credit Facility Documents, as the same may be amended, restated, supplemented or otherwise modified from time to time.

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“Interest Election Request” means a request by the applicable Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08.

“Interest Payment Date” means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December, (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid.

“Interest Period” means with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the applicable Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurocurrency Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Issuing Bank” means JPMorgan Chase Bank, National Association, in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Joint Venture” means any corporation, partnership, limited liability company or other legal entity or arrangement in which the Company or any Subsidiary has an equity investment and direct or indirect Control.

“LC Disbursement” means a payment made by the Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn Dollar Amount of all outstanding Letters of Credit at such time plus (b) the aggregate Dollar Amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Company at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender hereunder pursuant to Section 2.20 or pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

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“LIBO Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, the rate appearing on, in the case of Dollars, Reuters BBA Libor Rates Page 3750 and, in the case of any Foreign Currency, the appropriate page of such service which displays British Bankers Association Interest Settlement Rates for deposits in such Foreign Currency (or, in each case, on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to deposits in the relevant Agreed Currency in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for deposits in the relevant Agreed Currency with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the “LIBO Rate” with respect to such Eurocurrency Borrowing for such Interest Period shall be the rate at which deposits in the relevant Agreed Currency in an Equivalent Amount of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having

substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“Loan Documents” means this Agreement, each Borrowing Subsidiary Agreement, each Borrowing Subsidiary Termination, the Subsidiary Guaranty, the Pledge Agreements, any promissory notes executed and delivered pursuant to Section 2.10(e), the Intercreditor Agreement and any and all other instruments and documents executed and delivered in connection with any of the foregoing.

“Loan Parties” means, collectively, the Borrowers and the Subsidiary Guarantors.

“Local Time” means (i) New York City time in the case of a Loan, Borrowing or LC Disbursement denominated in Dollars to, or for the account of, the Company and (ii) local time at the place of the relevant Loan, Borrowing or LC Disbursement (or such earlier local time as is necessary for the relevant funds to be received and transferred to the Administrative Agent for same day value on the date the relevant reimbursement obligation is due) in the case of a Loan, Borrowing or LC Disbursement which is denominated in a Foreign Currency or which is to, or for the account of, a Foreign Subsidiary Borrower.

“Mandatory Cost” is described in Schedule 2.02.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, property or condition (financial or otherwise) of the Company and the Subsidiaries taken as a whole or (b) the ability of any Borrower or any other Loan Party to perform any of its obligations under this Agreement or any other Loan Document or (c) the rights of or remedies available to the Lenders under this Agreement or any other Loan Document.

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“Material Indebtedness” means (i) the Indebtedness under any Convertible Subordinated Note and (ii) any other Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Company and its Material Subsidiaries in an aggregate principal amount exceeding \$15,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Material Subsidiary” means each Subsidiary (i) which, as of the most recent fiscal year of the Company, for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Section 5.01, contributed greater than ten percent (10%) of the Company’s Consolidated EBITDA for such period or (ii) which contributed greater than ten percent (10%) of the Company’s Consolidated Total Assets as of such date; provided that, if at any time the aggregate amount of the Company’s Consolidated EBITDA or Company’s Consolidated Total Assets attributable to Subsidiaries (other than Affected Foreign Subsidiaries) that are not Subsidiary Guarantors exceeds twenty percent (20%) of the Company’s Consolidated EBITDA for any such period or twenty percent (20%) of the Company’s Consolidated Total Assets as of the end of any such fiscal year, the Company (or, in the event the Company has failed to do so within ten days, the Administrative Agent) shall designate sufficient Subsidiaries (other than Affected Foreign Subsidiaries) as “Material Subsidiaries” to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute Material Subsidiaries; provided, that, in the case of a Person becoming a Subsidiary pursuant to an acquisition, the foregoing financial tests shall be applied on a Pro Forma Basis immediately upon consummation of such acquisition and, assuming such Subsidiary would constitute a Material Subsidiary on a Pro Forma Basis, the Company shall comply with Sections 5.09 and 5.10.

“Maturity Date” means June 6, 2012.

“Moody’s” means Moody’s Investors Service, Inc.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“New Mask Shop Obligations” means all obligations of the Company to pay rent, additional rent and other payments under, or in connection with, the Build to Suit Lease dated May 5, 2006 by and between the Company and Micron Technology, Inc., including any, extension, amendment, modification, replacement, substitution or refinancing of such obligations whether with Micron Technology, Inc. or a third party lender so long as the principal amount of such obligations is not increased.

“New Money Credit Event” means with respect to the Issuing Bank, any increase (directly or indirectly) in the Issuing Bank’s exposure (whether by way of additional credit or banking facilities or otherwise, including as part of a restructuring) to any Borrower or any Governmental Authority in any Borrower’s or any applicable Letter of Credit beneficiary’s country occurring by reason of (i) any law, action or requirement of any Governmental Authority in such Borrower’s or such Letter of Credit beneficiary’s country, or (ii) any request in respect of external indebtedness of borrowers in such Borrower’s or such Letter of Credit beneficiary’s country applicable to banks generally which conduct business with such borrowers, or (iii) any agreement in relation to clause (i) or (ii), in each case to the extent calculated by reference to the aggregate Revolving Credit Exposures outstanding prior to such increase.

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“Obligations” means all indebtedness (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Company and its Subsidiaries to any of the Lenders and the Administrative Agent, individually or collectively, existing on the Effective Date or arising thereafter, under this Credit Agreement or any of the other Loan Documents or to the Lenders or any of their Affiliates under any Swap Agreement or any Banking Services Agreement or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof, whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise.

“Other Taxes” means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Overnight Foreign Currency Rate” means, for any amount payable in a Foreign Currency, the rate of interest per annum as determined by the Administrative Agent at which overnight or weekend deposits in the relevant currency (or if such amount due remains unpaid for more than three Business Days, then for such other period of time as the Administrative Agent may elect) for delivery in immediately available and freely transferable funds would be offered by the Administrative Agent to major banks in the interbank market upon request of such major banks for the relevant currency as determined above and in an amount comparable to the unpaid principal amount of the related Credit Event, plus any taxes, levies, imposts, duties, deductions, charges or withholdings imposed upon, or charged to, the Administrative Agent by any relevant correspondent bank in respect of such amount in such relevant currency.

“Participant” has the meaning set forth in Section 9.04.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Acquisition” means any acquisition (whether by purchase, merger, consolidation or otherwise) or series of related acquisitions by the Company or any Subsidiary of all or substantially all the assets of, or more than a majority of the Equity Interests in, a Person or division or line of business of a Person if, at the time of and immediately after giving effect thereto, (a) no Default has occurred and is continuing or would arise after giving effect thereto, (b) such Person or division or line of business is engaged in the same or a similar line of business as the Company and the Subsidiaries or business reasonably related or complimentary thereto, (c) all actions required to be taken with respect to such acquired or newly formed Subsidiary under Sections 5.09 and 5.10 shall have been taken, (d) the Company and the Subsidiaries are in compliance, on a Pro Forma Basis after giving effect to such acquisition, with the covenants contained in Section 6.11 recomputed as of the last day of the most recently ended fiscal quarter of the Company for which financial statements are available, as if such acquisition (and any related incurrence or repayment of Indebtedness, with any new Indebtedness being deemed to be amortized over the applicable testing period in accordance with its terms) had occurred on the first day of each relevant period for testing such compliance and, if the aggregate consideration (including the concurrent repayment or assumption of any indebtedness and related investments) paid in respect of such acquisition exceeds \$10,000,000, the Company shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Company to such effect, together with all relevant financial information, statements and projections requested by the Administrative Agent, (e) the aggregate consideration (including the concurrent repayment or assumption of any indebtedness and related

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investments) paid in respect of such acquisition does not exceed \$10,000,000 unless the Company and the Subsidiaries have on a Pro Forma Basis (as calculated above) a maximum Senior Leverage Ratio of 1.5 to 1.0 and a maximum Total Leverage Ratio of 3.0 to 1.0 and (f) in the case of an acquisition or merger involving the Company or a Subsidiary, the Company or such Subsidiary is the surviving entity of such merger and/or consolidation.

“Permitted Encumbrances” means:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.04, or as to which the grace period, if any, related thereto has not expired;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are not in excess of \$3,000,000 individually, or \$5,000,000 in the aggregate, or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII; and

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Company or any Subsidiary;

provided that the term “Permitted Encumbrances” shall not include any Lien securing Indebtedness.

“Permitted Investments” means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within one year from the date of acquisition thereof and having, at such date of acquisition, the credit rating of A1 from S&P or P1 from Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;

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(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) investments in taxable or tax exempt obligations of any state of the United States of America or any municipality thereof maturing within three years of the date of acquisition thereof and which is rated “A1” or higher by Moody’s or “AA” or higher by S&P;

(f) investments in auction rate securities maturing within one year of the date of acquisition thereof and which is rated “Aa3” or higher by Moody’s or “AA-” or higher by S&P;

(g) investments in fixed income securities maturing within one year of the date of acquisition thereof and which are rated “A” or higher by Moody’s or S&P;

(h) to the extent the aggregate amount of such investments does not exceed 10% of Permitted Investments, investments in fixed income securities maturing within two years of the date of acquisition thereof and which are rated between “BBB-” and “BBB+” by S&P;

(i) investments in money market mutual funds having assets in excess of \$1,000,000,000 whose sole investments are securities described in clauses (a) through (i) above; and

(j) in the case of any Foreign Subsidiary, investments of comparable tenure and credit quality to those described in the foregoing clauses (a) through (i) or other high quality short term investments, in each case, customarily utilized in countries in which such Foreign Subsidiary operates for short term cash management purposes.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Photronics China” means Photronics Imaging Technologies (Shanghai) Co., Ltd., a Chinese corporation.

“PKL” means PKL, Ltd., a Korean corporation.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Pledge Agreements” means that certain Pledge Agreement substantially in the form of Exhibit H (including any and all supplements thereto) and executed by the relevant Loan Parties, and, in the case of any pledge of Equity Interests of a Foreign Subsidiary, any other pledge agreements, share mortgages, charges and comparable instruments and documents from time to time executed pursuant to the terms of Section 5.10 in favor of the Collateral Agent for the benefit of the Holders of Secured Obligations as amended, restated, supplemented or otherwise modified from time to time.

“Pledged Equity” means all pledged Equity Interests in or upon which a security interest or Lien is from time to time granted to the Administrative Agent, for the benefit of the Holders of Secured Obligations, under the Pledge Agreements.

“Pounds Sterling” means the lawful currency of the United Kingdom.

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“Prime Rate” means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, National Association as its prime rate in effect at its principal office in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Pro Forma Basis” means on a basis in accordance with GAAP and Regulation S-X and otherwise reasonably satisfactory to the Administrative Agent.

“PSMC” means Photronics Semiconductor Mask Corporation, a Republic of China corporation.

“Register” has the meaning set forth in Section 9.04.

“Regulation S-X” means Regulation S-X under the Securities Act of 1933, as amended.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Company or any option, warrant or other right to acquire any such Equity Interests in the Company.

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure and Swingline Exposure at such time.

“Revolving Loan” means a Loan made pursuant to Section 2.01.

“S&P” means Standard & Poor’s.

“Sale and Leaseback Transaction” means any sale or other transfer of property by any Person with the intent to lease such property as lessee.

“Secured Obligations” means the Obligations and the Chinese Credit Facility Guarantee Obligations.

“Secured Parties” means the holders of the Obligations from time to time and shall include (i) each Lender and the Issuing Bank in respect of its Loans and LC Exposure respectively, (ii) the Administrative Agent, the Issuing Bank and the Lenders in respect of all other present and future obligations and liabilities of the Company and each Subsidiary of every type and description arising under or in connection with the Credit Agreement or any other Loan Document, (iii) each Lender and affiliate of such Lender in respect of Swap Agreements and Banking Services entered into with such Person by the the Company or any Subsidiary, (iv) each indemnified party under Section 9.03 in respect of the

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obligations and liabilities of the Borrowers to such Person hereunder and under the other Loan Documents, and (v) their respective successors and (in the case of a Lender, permitted) transferees and assigns.

“Senior Leverage Ratio” has the meaning assigned to such term in Section 6.11(a).

“Statutory Reserve Rate” means, with respect to any currency, a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve, liquid asset, fees or similar requirements (including any marginal, special, emergency or supplemental reserves or other requirements) established by any central bank, monetary authority, the Board, the Financial Services Authority, the European Central Bank or other Governmental Authority for any category of deposits or liabilities customarily used to fund loans in such currency, expressed in the case of each such requirement as a decimal. Such reserve percentages shall, in the case of Dollar denominated Loans, include those imposed pursuant to Regulation D of the Board. Eurocurrency Loans shall be deemed to be subject to such reserve, liquid asset or similar requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under any applicable law, rule or regulation, including Regulation D. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve, liquid asset or similar requirement.

“Subordinated Indebtedness” of the Company or any Subsidiary means the Indebtedness under the Convertible Subordinated Notes outstanding on the Effective Date and any other Indebtedness of such Person the payment of which is subordinated to payment of the obligations under the Loan Documents to the written satisfaction of, and the terms and conditions of which are otherwise satisfactory to, the Administrative Agent.

“Subordinated Indebtedness Documents” means any document, agreement or instrument evidencing any Subordinated Indebtedness or entered into in connection with any Subordinated Indebtedness.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Company.

“Subsidiary Guarantor” means each Material Subsidiary (other than Affected Foreign Subsidiaries). The Subsidiary Guarantors on the Effective Date are identified as such in Schedule 3.01 hereto.

“Subsidiary Guaranty” means that certain Guaranty dated as of the Effective Date in the form of Exhibit G (including any and all supplements thereto) and executed by each Subsidiary Guarantor party thereto, and, in the case of any guaranty by a Foreign Subsidiary, any other guaranty agreements as are requested by the Administrative Agent and its counsel, in each case as amended, restated, supplemented or otherwise modified from time to time.

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“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Company or the Subsidiaries shall be a Swap Agreement.

“Swap Obligations” means any and all obligations of the Company or any Subsidiary, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements permitted hereunder with a Lender or an affiliate of a Lender, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any such Swap Agreement transaction.

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time.

“Swingline Lender” means JPMorgan Chase Bank, National Association, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.05.

“TARGET” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system (or, if such payment system ceases to be operative, such other payment system (if any) reasonably determined by the Administrative Agent to be a suitable replacement) for the settlement of payments in euro.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

“Total Leverage Ratio” has the meaning assigned to such term in Section 6.11(b).

“Transactions” means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurocurrency Loan”) or by Class and Type (e.g., a “Eurocurrency Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurocurrency Borrowing”) or by Class and Type (e.g., a “Eurocurrency Revolving Borrowing”).

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SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

## ARTICLE II

### The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to any Borrower in Agreed Currencies from time to time during the Availability Period in an aggregate principal amount that will not result in (a) the Dollar Amount of such Lender’s Revolving Credit Exposure exceeding the Dollar Amount of such Lender’s Commitment, (b) subject to Section 2.04, the sum of the total Revolving Credit Exposures exceeding the Aggregate Commitment or (c) subject to Section 2.04, the Dollar Amount of the total outstanding Revolving Loans and LC Exposure, in each case denominated in Foreign Currencies, exceeding the Foreign Currency Sublimit. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings. (a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender’s failure to make Loans as required.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the relevant Borrower may request in accordance herewith;

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provided that each ABR Loan shall only be made in Dollars. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Eurocurrency Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the relevant Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$500,000 and not less than \$3,000,000 (or the Approximate Equivalent Amount of each such amount if such Borrowing is denominated in a Foreign Currency). At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$100,000 and not less than \$1,000,000; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Each Swingline Loan shall be in an amount that is an integral multiple of \$100,000 and not less than \$1,000,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of ten (10) Eurocurrency Revolving Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, no Borrower shall be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the applicable Borrower, or the Company on behalf of the applicable Borrower, shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., Local Time, three (3) Business Days (in the case of a Eurocurrency Borrowing denominated in Dollars to the Company) or four (4) Business Days (in the case of a Eurocurrency Borrowing denominated in a Foreign Currency or a Eurocurrency Borrowing to a Foreign Subsidiary Borrower), in each case before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, one (1) Business Day before the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the applicable Borrower, or the Company on behalf of the applicable Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the aggregate amount of the requested Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day;

(iii) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;

(iv) in the case of a Eurocurrency Borrowing, the Agreed Currency and initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(v) the location and number of the applicable Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

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If no election as to the Type of Revolving Borrowing is specified, then, in the case of a Borrowing denominated in Dollars to the Company, the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Revolving Borrowing, then the relevant Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Determination of Dollar Amounts. The Administrative Agent will determine the Dollar Amount of:

(a) each Eurocurrency Borrowing as of the date three (3) Business Days prior to the date of such Borrowing or, if applicable, date of conversion/continuation of any Borrowing as a Eurocurrency Borrowing,

(b) the LC Exposure as of the date of each request for the issuance, amendment, renewal or extension of any Letter of Credit, and

(c) all outstanding Credit Events on and as of the last Business Day of each calendar quarter and, during the continuation of an Event of Default, on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders.

Each day upon or as of which the Administrative Agent determines Dollar Amounts as described in the preceding clauses (a), (b) and (c) is herein described as a "Computation Date" with respect to each Credit Event for which a Dollar Amount is determined on or as of such day.

SECTION 2.05. Swingline Loans. (a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans in Dollars to the Company from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$10,000,000 or (ii) the Dollar Amount of the total Revolving Credit Exposures exceeding the Aggregate Commitment; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Company may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Company shall notify the Administrative Agent of such request by telephone (confirmed by telecopy), not later than 12:00 noon, New York City time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Company. The Swingline Lender shall make each Swingline Loan available to the Company by means of a credit to the general deposit account of the Company with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e), by remittance to the Issuing Bank) by 3:00 p.m., New York City time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby

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absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner

as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Company of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Company (or other party on behalf of the Company) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Company for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Company of any default in the payment thereof.

SECTION 2.06. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Company may request the issuance of Letters of Credit denominated in Agreed Currencies for its own account, in a form reasonably acceptable to the Administrative Agent and the Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Company to, or entered into by the Company with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control; provided, however, if the Issuing Bank is requested to issue Letters of Credit with respect to a jurisdiction the Issuing Bank deems, in its reasonable judgment, may at any time subject it to a New Money Credit Event or a Country Risk Event, the Company shall, at the request of the Issuing Bank, guaranty and indemnify the Issuing Bank against any and all costs, liabilities and losses resulting from such New Money Credit Event or Country Risk Event, in each case in a form and substance reasonably satisfactory to the Issuing Bank.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Company shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the Agreed Currency applicable thereto, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the Company also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Company shall be

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deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the Dollar Amount of the LC Exposure shall not exceed \$10,000,000, (ii) subject to Section 2.04, the total Revolving Credit Exposures shall not exceed the Aggregate Commitment and (iii) subject to Section 2.04, the Dollar Amount of the sum of the total outstanding Revolving Loans and LC Exposure, in each case denominated in Foreign Currencies, shall not exceed the Foreign Currency Sublimit.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five (5) Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate Dollar Amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Company on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Company for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Company shall reimburse such LC Disbursement by paying to the Administrative Agent in Dollars the Dollar Amount equal to such LC Disbursement, calculated as of the date the Issuing Bank made such LC Disbursement (or if the Issuing Bank shall so elect in its sole discretion by notice to the Company, in such other Agreed Currency which was paid by the Issuing Bank pursuant to such LC Disbursement in an amount equal to such LC Disbursement) not later than 12:00 noon, Local Time, on the date that such LC Disbursement is made, if the Company shall have received notice of such LC Disbursement prior to 10:00 a.m., Local Time, on such date, or, if such notice has not been received by the Company prior to such time on such date, then not later than 12:00 noon, Local Time, on (i) the Business Day that the Company receives such notice, if such notice is received prior to 10:00 a.m., Local Time, on the day of receipt, or (ii) the Business Day immediately following the day that the Company receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Company may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent Dollar Amount of such LC Disbursement and, to the extent so financed, the Company's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Company fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Company in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Company, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Issuing

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Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Company pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to



this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Company of its obligation to reimburse such LC Disbursement. If the Company's reimbursement of, or obligation to reimburse, any amounts in any Foreign Currency would subject the Administrative Agent, the Issuing Bank or any Lender to any stamp duty, ad valorem charge or similar tax that would not be payable if such reimbursement were made or required to be made in Dollars, the Company shall, at its option, either (x) pay the amount of any such tax requested by the Administrative Agent, the Issuing Bank or the relevant Lender or (y) reimburse each LC Disbursement made in such Foreign Currency in Dollars, in an amount equal to the Equivalent Amount, calculated using the applicable exchange rates, on the date such LC Disbursement is made, of such LC Disbursement.

(f) Obligations Absolute. The Company's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Company's obligations hereunder. Neither the Administrative Agent, the Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Company to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Company to the extent permitted by applicable law) suffered by the Company that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the Company by telephone

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(confirmed by teletype) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Company of its obligation to reimburse the Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Company shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Company reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans (or in the case such LC Disbursement is denominated in a Foreign Currency, at the Overnight Foreign Currency Rate for such Agreed Currency plus the then effective Applicable Rate with respect to Eurocurrency Revolving Loans); provided that, if the Company fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of the Issuing Bank. The Issuing Bank may be replaced at any time by written agreement among the Company, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Company shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Company receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Company shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the Dollar Amount of the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that (i) the portions of such amount attributable to undrawn Foreign Currency Letters of Credit or LC Disbursements in a Foreign Currency that the Company is not late in reimbursing shall be deposited in the applicable Foreign Currencies in the actual amounts of such undrawn Letters of Credit and LC Disbursements and (ii) the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Company described in clause (h) or (i) of Article VII. For the purposes of this paragraph, the Foreign Currency LC Exposure shall be calculated using the applicable exchange rates of the Administrative Agent on the date notice demanding cash collateralization is delivered to the Company. The Company also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.11(b). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other

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than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Company's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Company for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other obligations of the Company under this Agreement. If the Company is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Company within three Business Days after all Events of Default have been cured or waived.

(k) Conversion. In the event that the Loans become immediately due and payable on any date pursuant to Article VII, all amounts (i) that the Company is at the time or thereafter becomes required to reimburse or otherwise pay to the Administrative Agent in respect of LC Disbursements made under any Foreign Currency Letter of Credit (other than amounts in respect of which the Company has deposited cash collateral pursuant to paragraph (j) above, if such cash collateral was deposited in the applicable Foreign Currency to the extent so deposited or applied), (ii) that the Lenders are at the time or thereafter become required to pay to the Administrative Agent and the Administrative Agent is at the time or thereafter becomes required to distribute to the Issuing Bank pursuant to paragraph (e) of this Section in respect of unreimbursed LC Disbursements made under any Foreign Currency Letter of Credit and (iii) of each Lender's participation in any Foreign Currency Letter of Credit under which an LC Disbursement has been made shall, automatically and with no further action required, be converted into the Dollar Amount, calculated using the Administrative Agent's currency exchange rates on such date (or in the case of any LC Disbursement made after such date, on the date such LC Disbursement is made), of such amounts. On and after such conversion, all amounts accruing and owed to the Administrative Agent, the Issuing Bank or any Lender in respect of the obligations described in this paragraph shall accrue and be payable in Dollars at the rates otherwise applicable hereunder.

SECTION 2.07. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds (i) in the case of Loans denominated in Dollars to the Company, by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders and (ii) in the case of each Loan denominated in a Foreign Currency or to a Foreign Subsidiary Borrower, by 12:00 noon, Local Time, in the city of the Administrative Agent's Eurocurrency Payment Office for such currency and Borrower and at such Eurocurrency Payment Office for such currency and Borrower; provided that Swingline Loans shall be made as provided in Section 2.05. The Administrative Agent will make such Loans available to the relevant Borrower by promptly crediting the amounts so received, in like funds, to (x) an account of the Company maintained with the Administrative Agent in New York City and designated by the relevant Borrower in the applicable Borrowing Request, in the case of Loans denominated in Dollars to the Company and (y) an account of such Borrower maintained with the Administrative Agent in the relevant jurisdiction and designated by such Borrower in the applicable Borrowing Request, in the case of Loans denominated in a Foreign Currency or to a Foreign Subsidiary Borrower; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made

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such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the relevant Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and such Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (including without limitation the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency) or (ii) in the case of such Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08. Interest Elections. (a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurocurrency Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the relevant Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. A Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, a Borrower, or the Company on its behalf, shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the relevant Borrower, or the Company on its behalf. Notwithstanding any contrary provision herein, this Section shall not be construed to permit any Borrower to (i) change the currency of any Borrowing, (ii) elect an Interest Period for Eurocurrency Loans that does not comply with Section 2.02(d) or (iii) convert any Borrowing to a Borrowing of a Type not available under the Class of Commitments pursuant to which such Borrowing was made.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

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(iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period and Agreed Currency to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the relevant Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period (i) in the case of a Borrowing denominated in Dollars, such Borrowing shall be converted to an ABR Borrowing and (ii) in the case of a Borrowing denominated in a Foreign Currency, such Borrowing shall automatically continue as a Eurocurrency Borrowing in the same Agreed Currency with an Interest Period of one month unless (x) such Eurocurrency Borrowing is or was repaid in accordance with Section 2.11 or (y) such Borrower shall have given the Administrative Agent an Interest Election Request requesting that, at the end of such Interest Period, such Eurocurrency Borrowing continue as a Eurocurrency Borrowing for the same or another Interest Period. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing borrowed by the Company may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Revolving Borrowing borrowed by the Company shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09. Termination and Reduction of Commitments. (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Company may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$1,000,000 and (ii) the Company shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the Dollar Amount of the sum of the Revolving Credit Exposures would exceed the Aggregate Commitment.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.10. Repayment of Loans; Evidence of Debt. (a) Each Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then

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unpaid principal amount of each Revolving Loan made to such Borrower on the Maturity Date in the currency of such Loan and (ii) in the case of the Company, to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the first date after such Swingline Loan is made that is the 15<sup>th</sup> or last day of a calendar month and is at least two Business Days after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made, the Company shall repay all Swingline Loans then outstanding.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of each Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class, Agreed Currency and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from each Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of any Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it to any Borrower be evidenced by a promissory note. In such event, the relevant Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

SECTION 2.11. Prepayment of Loans.

(a) Any Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with the provisions of this Section 2.11(a). The applicable Borrower, or the Company on behalf of the applicable Borrower, shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by teletype) of any prepayment hereunder (i) in the case of prepayment of a Eurocurrency Revolving Borrowing, not later than 11:00 a.m., Local Time, three Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 11:00 a.m., New York City time, one Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such

notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be

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permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16.

(b) If at any time, (i) other than as a result of fluctuations in currency exchange rates, the sum of the aggregate principal Dollar Amount of all of the Revolving Credit Exposures (calculated, with respect to those Credit Events denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event) exceeds the Aggregate Commitment and (ii) solely as a result of fluctuations in currency exchange rates, the sum of the aggregate principal Dollar Amount of all of the outstanding Revolving Loans and LC Exposure, in each case denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event, exceeds 105% of the Foreign Currency Sublimit, the Borrowers shall immediately repay Borrowings or cash collateralize LC Disbursements in an account with the Administrative Agent pursuant to Section 2.06(j), as applicable, in an aggregate principal amount sufficient to eliminate any such excess.

SECTION 2.12. Fees. (a) The Company agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates; provided that, if such Lender continues to have any Revolving Credit Exposure after its Commitment terminates, then such commitment fee shall continue to accrue on the amount of such Lender's Commitment from and including the date on which its Commitment terminates to but excluding the date on which such Lender ceases to have any Revolving Credit Exposure. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; provided that any commitment fees accruing after the date on which the Commitments terminate shall be payable on demand. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Company agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans on the average daily Dollar Amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the Issuing Bank a fronting fee, which shall accrue at a rate per annum separately agreed upon between the Company and the Issuing Bank on the average daily Dollar Amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third (3<sup>rd</sup>) Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within ten (10) days after demand. All participation fees and fronting fees shall be computed on the basis of a year of

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360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in Dollars (except as otherwise expressly provided in this Section) and immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest. (a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurocurrency Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest (i) computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) for Borrowings denominated in Pounds Sterling shall be computed on the basis of a year of 365 days, and in each case shall be payable for the actual number of days

elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

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(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower and the Lenders by telephone or telecopy as promptly as practicable thereafter and, until the Administrative Agent notifies the applicable Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective and (ii) if any Borrowing Request requests a Eurocurrency Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted.

SECTION 2.15. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank; or

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurocurrency Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan or of maintaining its obligation to make any such Loan (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Agreed Currency into a Borrowing denominated in any other Agreed Currency) or to increase the cost to such Lender or the Issuing Bank of participating in, issuing or maintaining any Letter of Credit (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Agreed Currency into a Borrowing denominated in any other Agreed Currency) or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank hereunder, whether of principal, interest or otherwise (including, without limitation, pursuant to any conversion of any Borrowing denominated in an Agreed Currency into a Borrowing denominated in any other Agreed Currency), then the applicable Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Bank determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy), then from time to time the applicable Borrower will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

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(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Company and shall be conclusive absent manifest error. The Company shall pay, or cause the other Borrowers to pay, such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that the Company shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith) or (d) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Company pursuant to Section 2.19, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the relevant currency of a comparable amount and period from other banks in the eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the applicable Borrower and shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

SECTION 2.17. Taxes. (a) Any and all payments by or on account of any obligation of each Borrower hereunder shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if any Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Borrower shall make such deductions and (iii) such Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

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(b) In addition, each Borrower shall pay any Other Taxes related to such Borrower and imposed on or incurred by the Administrative Agent, a Lender or the Issuing Bank to the relevant Governmental Authority in accordance with applicable law.

(c) The relevant Borrower shall indemnify the Administrative Agent, each Lender and the Issuing Bank, within ten (10) days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or the Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of such Borrower hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by a Lender or the Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower to a Governmental Authority, such Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which a Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to such Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by such Borrower as will permit such payments to be made without withholding or at a reduced rate.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrowers or with respect to which a Borrower has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by such Borrower under this Section 2.17 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Borrower or any other Person.

SECTION 2.18. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to (i) in the case of payments denominated in Dollars by the Company, 12:00 noon, New York City time and (ii) in the case of payments denominated in a Foreign Currency or by a Foreign Subsidiary Borrower, 12:00 noon, Local Time, in the city of the Administrative Agent's Eurocurrency Payment Office for such currency, in each case on the date when due, in

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immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made (i) in the same currency in which the applicable Credit Event was made (or where such currency has been converted to euro, in euro) and (ii) to the Administrative Agent at its offices at 270 Park Avenue, New York, New York 10017 or, in the case of a Credit Event denominated in a Foreign Currency or to a Foreign Subsidiary Borrower, the Administrative Agent's Eurocurrency Payment Office for such currency, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments denominated in the same currency received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Notwithstanding the foregoing provisions of this Section, if, after the making of any Credit Event in any Foreign Currency, currency control or exchange regulations are imposed in the country which issues such currency with the result that the type of currency in which the Credit Event was made (the "Original Currency") no longer exists or any Borrower is not able to make payment to the Administrative Agent for the account of the Lenders in such Original Currency, then all payments to be made by such Borrower hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of repayment) of such payment due, it being the intention of the parties hereto that the Borrowers take all risks of the imposition of any such currency control or exchange regulations.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than the proportion received

by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements and Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by any Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements and Swingline Loans to any assignee or participant, other than to the Company or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may

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exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the relevant Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (including without limitation the Overnight Foreign Currency Rate in the case of Loans denominated in a Foreign Currency).

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

**SECTION 2.19. Mitigation Obligations; Replacement of Lenders.** (a) If any Lender requests compensation under Section 2.15, or if any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Company hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender defaults in its obligation to fund Loans hereunder, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Company shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto,

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as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.

**SECTION 2.20. Expansion Option.** The Company may from time to time elect to increase the Commitments or obtain one or more tranches of term loans ("Expansion Term Loans") or tranches of loans by one or more Lenders to certain of the Company's Foreign Subsidiaries ("Expansion Foreign Loans"), in each case in minimum increments of \$10,000,000 so long as, after giving effect thereto, the aggregate amount of such increases, Expansion Term Loans and Expansion Foreign Loans does not exceed \$50,000,000. The Company may arrange for any such increase or tranche to be provided by one or more Lenders (each Lender so agreeing to an increase in its Commitment or to participate in such a tranche, an "Increasing Lender"), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an "Augmenting Lender"), to increase their existing Commitments, or to participate in such a tranche, or extend Commitments, as the case may be; provided that (i) each Augmenting Lender, shall be subject to the approval of the Company and the Administrative Agent and (ii) (x) in the case of an Increasing Lender, the Company and such Increasing Lender execute an agreement substantially in the form of Exhibit C hereto, with such modifications thereto as are reasonably required by the Administrative Agent to give effect to this Section 2.20 and (y) in the case of an Augmenting Lender, the Company and such Augmenting Lender execute an agreement substantially in the form of Exhibit D hereto, with such modifications thereto as are reasonably required by the Administrative Agent to give effect to this Section 2.20. Increases and new Commitments, Expansion Term Loans and Expansion Foreign Loans created pursuant to this Section 2.20 shall become effective on the date agreed by the Company, the Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders and the Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no increase in the Commitments (or in the Commitment of any Lender) or tranches of Expansion Term Loans or Expansion Foreign Loans shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such increase or tranche, (x) the conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied or waived by the Required Lenders and (y) the Borrowers shall be in compliance, on a pro forma basis after giving effect to such increase in the Commitments or new tranche of loans, with the covenants contained in Section 6.11 recomputed as if such increase in the Commitments or new tranche of loans had occurred on the first day of the period for testing such compliance and the Administrative Agent shall have received a certificate with respect to the foregoing clauses (x) and (y) dated such date and executed by a Financial Officer of the Company and (ii) the Administrative Agent shall have received, to the extent it so requests, documents consistent with those delivered on the Effective Date as to the corporate power and authority of the Borrowers to borrow hereunder after

giving effect to such increase. On the effective date of any increase in the Commitments, (i) each relevant Increasing Lender and Augmenting Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Lenders, each Lender's portion of the outstanding Revolving Loans of all the Lenders to equal its Applicable Percentage of such outstanding Revolving Loans, and (ii) the Borrowers shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by the Company in accordance with the requirements of Section 2.03). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence shall be accompanied by payment of all accrued interest on the amount prepaid and, in respect of each Eurocurrency Loan, shall be subject to indemnification by the Borrowers pursuant to the provisions of Section 2.16 if the deemed payment occurs other than on the last day of the related Interest Periods. The Expansion Term Loans and Expansion Foreign Loans (a) shall rank pari passu in right of payment and of security with the Revolving Loans, (b) shall not mature earlier than the Maturity Date (but may have amortization prior to such date) and (c) shall be treated substantially the same as (and in any event no

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more favorably than) the Revolving Loans, provided that (i) the terms and conditions applicable to any tranche of Expansion Term Loans maturing after the Maturity Date may provide for material additional or different financial or other covenants or prepayment requirements applicable only during periods after the Maturity Date and (ii) the Expansion Term Loans and Expansion Foreign Loans may be priced differently than the Revolving Loans. Expansion Term Loans and Expansion Foreign Loans may be made hereunder pursuant to an amendment (an "Expansion Loan Amendment") to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrowers, each Augmenting Lender participating in such tranche, if any, and the Administrative Agent. The Expansion Loan Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section, including without limitation to effect the risk participation by the Lenders in the Expansion Foreign Loans.

SECTION 2.21. Market Disruption. Notwithstanding the satisfaction of all conditions referred to in Article II and Article IV with respect to any Credit Event to be effected in any Foreign Currency, if (i) there shall occur on or prior to the date of such Credit Event any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which would in the reasonable opinion of the Administrative Agent, the Issuing Bank (if such Credit Event is a Letter of Credit) or the Required Lenders make it impracticable for the Eurocurrency Borrowings or Letters of Credit comprising such Credit Event to be denominated in the Agreed Currency specified by the applicable Borrower or (ii) an Equivalent Amount of such currency is not readily calculable, then the Administrative Agent shall forthwith give notice thereof to such Borrower, the Lenders and, if such Credit Event is a Letter of Credit, the Issuing Bank, and such Credit Events shall not be denominated in such Agreed Currency but shall, except as otherwise set forth in Section 2.07, be made on the date of such Credit Event in Dollars, (a) if such Credit Event is a Borrowing, in an aggregate principal amount equal to the Dollar Amount of the aggregate principal amount specified in the related Credit Event Request or Interest Election Request, as the case may be, as ABR Loans, unless such Borrower notifies the Administrative Agent at least one Business Day before such date that (i) it elects not to borrow on such date or (ii) it elects to borrow on such date in a different Agreed Currency, as the case may be, in which the denomination of such Loans would in the reasonable opinion of the Administrative Agent and the Required Lenders be practicable and in an aggregate principal amount equal to the Dollar Amount of the aggregate principal amount specified in the related Credit Event Request or Interest Election Request, as the case may be or (b) if such Credit Event is a Letter of Credit, in a face amount equal to the Dollar Amount of the face amount specified in the related request or application for such Letter of Credit, unless such Borrower notifies the Administrative Agent at least one (1) Business Day before such date that (i) it elects not to request the issuance of such Letter of Credit on such date or (ii) it elects to have such Letter of Credit issued on such date in a different Agreed Currency, as the case may be, in which the denomination of such Letter of Credit would in the reasonable opinion of the Issuing Bank, the Administrative Agent and the Required Lenders be practicable and in face amount equal to the Dollar Amount of the face amount specified in the related request or application for such Letter of Credit, as the case may be.

SECTION 2.22. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from any Borrower hereunder in the currency expressed to be payable herein (the "specified currency") into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent's main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of each Borrower in respect of any sum due to any Lender or the Administrative Agent hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the

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Business Day following receipt by such Lender or the Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender or the Administrative Agent, as the case may be, in the specified currency, each Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent, as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Lender or the Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.18, such Lender or the Administrative Agent, as the case may be, agrees to remit such excess to such Borrower.

SECTION 2.23. Designation of Foreign Subsidiary Borrowers. The Company may at any time and from time to time designate any Eligible Foreign Subsidiary as a Foreign Subsidiary Borrower by delivery to the Administrative Agent of a Borrowing Subsidiary Agreement executed by such Subsidiary and the Company and the satisfaction of the other conditions precedent set forth in Section 4.03, and upon such delivery and satisfaction such Subsidiary shall for all purposes of this Agreement be a Foreign Subsidiary Borrower and a party to this Agreement until the Company shall have executed and delivered to the Administrative Agent a Borrowing Subsidiary Termination with respect to such Subsidiary, whereupon such Subsidiary shall cease to be a Foreign Subsidiary Borrower and a party to this Agreement. Notwithstanding the preceding sentence, no Borrowing Subsidiary Termination will become effective as to any Foreign Subsidiary Borrower at a time when any principal of or interest on any Loan to such Borrower shall be outstanding hereunder, provided that such Borrowing Subsidiary Termination shall be effective to terminate the right of such Foreign Subsidiary Borrower to make further Borrowings under this Agreement. As soon as practicable upon receipt of a Borrowing Subsidiary Agreement, the Administrative Agent shall furnish a copy thereof to each Lender.

### ARTICLE III

#### Representations and Warranties



Each Borrower represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers; Subsidiaries. Each of the Company and its Subsidiaries is duly organized, validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing (to the extent such concept is applicable) in, every jurisdiction where such qualification is required. Schedule 3.01 hereto (as supplemented from time to time) identifies each Subsidiary, if such Subsidiary is a Material Subsidiary, the jurisdiction of its incorporation or organization, as the case may be, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by the Company and the other Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests of each Subsidiary are validly issued and outstanding and fully paid and nonassessable and all such shares and other equity interests indicated on Schedule 3.01 as owned by the Company or another Subsidiary are owned, beneficially and of record, by the Company or any Subsidiary free and clear of all Liens, other than Liens created under the Pledge Agreements. Except as set forth in Schedule 3.01, there are no

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outstanding commitments or other obligations of the Company or any Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of the Company or any Subsidiary.

SECTION 3.02. Authorization; Enforceability. The Transactions are within each Borrower's corporate powers and have been duly authorized by all necessary corporate and, if required, shareholder action. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. Each Borrowing Subsidiary Agreement has been duly executed and delivered by the Borrower party thereto and constitutes a legal, valid and binding obligation of such Borrower, enforceable against such Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, and except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Company or any of its Subsidiaries or any order of any Governmental Authority, except for violations, individually or in the aggregate, which could not reasonably be expected to result in a Material Adverse Effect, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Company or any of its Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by the Company or any of its Subsidiaries, except for violations or defaults, individually or in the aggregate, which could not reasonably be expected to result in a Material Adverse Effect, and (d) will not result in the creation or imposition of any Lien on any asset of the Company or any of its Subsidiaries, other than Liens created under the Pledge Agreements.

SECTION 3.04. Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended October 29, 2006 reported on by Deloitte & Touche LLP, independent public accountants, and (ii) as of and for the fiscal quarter ended January 28, 2007, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Since October 29, 2006, there has been no material adverse change in the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole.

SECTION 3.05. Properties. (a) Each of the Company and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes. There are no Liens on any of the real or personal properties of the Company or any Subsidiary except for Liens permitted by Section 6.02.

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(b) Each of the Company and its Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to its business, and the use thereof by the Company and its Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters. (a) There are no actions, suits, proceedings or investigations by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Borrower, threatened against or affecting the Company or any of its Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve this Agreement or the Transactions. There are no labor controversies pending against or, to the knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries (i) which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, or (ii) that involve this Agreement or the Transactions.

(b) Except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Company nor any of its Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Neither the Company nor any Subsidiary is party or subject to any law, regulation, rule or order, or any obligation under any agreement or instrument, that has a Material Adverse Effect.

SECTION 3.07. Compliance with Laws and Agreements. Each of the Company and its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08. Investment Company Status. Neither the Company nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each of the Company and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Company or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. Disclosure. The Company has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither the Information Memorandum nor any of the other reports, financial

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statements, certificates or other information furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

SECTION 3.12. Federal Reserve Regulations. No part of the proceeds of any Loan have been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.13. Liens. There are no Liens on any of the real or personal properties of the Borrower or any Subsidiary except for Liens permitted by Section 6.02.

SECTION 3.14. No Default. Each Borrower is in full compliance with this Agreement and no Default or Event of Default has occurred and is continuing.

SECTION 3.15. Senior Indebtedness. The Obligations constitute "Senior Indebtedness" under and as defined in the Convertible Subordinated Note Indenture.

#### ARTICLE IV

##### Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Brenner, Saltzman & Wallman LLP, counsel for the initial Loan Parties, substantially in the form of Exhibit B, and covering such other matters relating to the Loan Parties, the Loan Documents or the Transactions as the Administrative Agent shall reasonably request. The Company hereby requests such counsel to deliver such opinion.

(c) The Lenders shall have received satisfactory financial statement projections through and including the Company's 2012 fiscal year, together with such information as the Administrative Agent and the Lenders shall reasonably request.

(d) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the initial Loan Parties, the authorization of the Transactions and any other legal matters relating to such Loan Parties, the Loan Documents or the Transactions, all in form

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and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit E.

(e) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Company, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(f) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Company hereunder.

(g) The Administrative Agent shall have received evidence reasonably satisfactory to it that all governmental and third party approvals necessary or, in the discretion of the Administrative Agent, advisable in connection with the Transactions have been obtained and are in full force and effect.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrowers set forth in this Agreement shall be true and correct on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(c) No law or regulation shall prohibit, and no order, judgment or decree of any Governmental Authority shall enjoin, prohibit or restrain, any Lender from making the requested Loan or the Issuing Bank or any Lender from issuing, renewing, extending or increasing the face amount of or participating in the Letter of Credit requested to be issued, renewed, extended or increased.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

SECTION 4.03. Designation of a Foreign Subsidiary Borrower. The designation of a Foreign Subsidiary Borrower pursuant to Section 2.23 is subject to the condition precedent that the Company or such proposed Foreign Subsidiary Borrower shall have furnished or caused to be furnished to the Administrative Agent:

(a) Copies, certified by the Secretary or Assistant Secretary of such Subsidiary, of its Board of Directors' resolutions (and resolutions of other bodies, if any are deemed necessary by counsel for the Administrative Agent) approving the Borrowing Subsidiary Agreement and any other Loan Documents to which such Subsidiary is becoming a party;

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(b) An incumbency certificate, executed by the Secretary or Assistant Secretary of such Subsidiary, which shall identify by name and title and bear the signature of the officers of such Subsidiary authorized to request Borrowings hereunder and sign the Borrowing Subsidiary Agreement and the other Loan Documents to which such Subsidiary is becoming a party, upon which certificate the Administrative Agent and the Lenders shall be entitled to rely until informed of any change in writing by the Company or such Subsidiary;

(c) Opinions of counsel to such Subsidiary, in form and substance reasonably satisfactory to the Administrative Agent and its counsel, with respect to the laws of its jurisdiction of organization and such other matters as are reasonably requested by counsel to the Administrative Agent and addressed to the Administrative Agent and the Lenders.

(d) Any promissory notes requested by any Lender, and any other instruments and documents reasonably requested by the Administrative Agent.

## ARTICLE V

### Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated and all LC Disbursements shall have been reimbursed, the Company covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Company will furnish to the Administrative Agent for distribution to each Lender:

(a) as soon as the same is available but in any event within ninety (90) days after the end of each fiscal year of the Company, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Deloitte & Touche LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) as soon as the same is available but in any event within forty five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

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(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Company (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.11 and (iii) stating whether any change in GAAP or in the

application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) within 90 days of the commencement of each fiscal year of the Company, projected consolidated balance sheets, income statements and cash flow statements of the Company and its consolidated Subsidiaries for such fiscal year;

(e) promptly after the same become publicly available, copies of all 10-Ks, 10-Qs and 8-Ks filed by the Company or any Subsidiary with the U.S. Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed by the Company to its shareholders generally, as the case may be; and

(f) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Company or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request.

Documents required to be delivered pursuant to clauses (a), (b), (d) or (e) of this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Company posts such documents, or provides a link thereto on the Company's website on the Internet at the website address <www.photonics.com>; (ii) on which such documents are posted on the Company's behalf on IntraLinks™ or a substantially similar electronic platform, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) on which such documents are filed for public availability on the U.S. Securities and Exchange Commission's Electronic Data Gathering and Retrieval System; provided that the Company shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Company shall be required to provide paper copies of the compliance certificates required by clause (c) of this Section 5.01 to the Administrative Agent.

SECTION 5.02. Notices of Material Events. The Company will furnish to the Administrative Agent prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Company or any Affiliate thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

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(d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Company setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. The Company will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.04. Payment of Obligations. The Company will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Company or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05. Maintenance of Properties; Insurance. The Company will, and will cause each of its Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 5.06. Books and Records; Inspection Rights. The Company will, and will cause each of its Subsidiaries to, keep proper books of record and account in which entries that are full, true and correct in all material respects are made of all dealings and transactions in relation to its business and activities. The Company will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its relevant books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.

SECTION 5.07. Compliance with Laws and Material Contractual Obligations. The Company will, and will cause each of its Subsidiaries to, (i) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform in all material respects its obligations under material agreements to which it is a party, in each case except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Use of Proceeds. The proceeds of the Loans will be used only to repay certain existing Indebtedness, finance the working capital needs, and for general corporate purposes, of the Company and its Subsidiaries in the ordinary course of business. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

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SECTION 5.09. Subsidiary Guaranty. As promptly as possible but in any event within thirty (30) days (or such later date as may be agreed upon by the Administrative Agent) after any Person becomes a Subsidiary or any Subsidiary qualifies independently as, or is designated by the Company or the Administrative Agent as, a Subsidiary Guarantor pursuant to the definition of "Material Subsidiary", the Company shall provide the Administrative Agent with written notice thereof setting forth information in reasonable detail describing the earnings and material assets of such Person and shall cause each such Subsidiary which also qualifies as a Subsidiary Guarantor to deliver to the Administrative Agent a joinder to the Subsidiary Guaranty (in the form contemplated thereby) pursuant to which such Subsidiary agrees to be bound by the terms and provisions of thereof, such Subsidiary Guaranty to be accompanied by appropriate corporate resolutions, other corporate documentation and legal opinions in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

SECTION 5.10. Pledge Agreements. Each Borrower shall execute or cause to be executed, by no later than sixty days (or such later date as is agreed to by the Collateral Agent in its reasonable discretion) after the date on which any Material Subsidiary would qualify or be designated by the Company as a Subsidiary Guarantor, a Pledge Agreement in favor of the Collateral Agent for the benefit of the Holders of Secured Obligations with respect to the Applicable Pledge Percentage of all of the outstanding Equity Interests of such Material Subsidiary; provided that no such pledge of the Equity Interests of a Foreign Subsidiary shall be required hereunder to the extent such pledge is prohibited by applicable law or the Collateral Agent and its counsel reasonably determine that, in light of the cost and expense associated therewith, such pledge would be unduly burdensome or not provide material Pledged Equity for the benefit of the Holders of Secured Obligations pursuant to legally binding, valid and enforceable Pledge Agreements. Each Borrower further agrees to deliver to the Collateral Agent all such Pledge Agreements, together with appropriate corporate resolutions and other documentation (including legal opinions, the stock certificates representing the Equity Interests subject to such pledge, stock powers with respect thereto executed in blank, and such other documents as shall be reasonably requested to perfect the Lien of such pledge) in each case in form and substance reasonably satisfactory to the Collateral Agent, and in a manner that the Collateral Agent shall be reasonably satisfied that it has a first priority perfected pledge of or charge over the Pledged Equity related thereto. Notwithstanding the foregoing, the parties hereto acknowledge and agree that no Pledge Agreement shall be required until August 6, 2007 (or such later date as is agreed to by the Collateral Agent in its reasonable discretion).

## ARTICLE VI

### Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated and all LC Disbursements shall have been reimbursed, the Company covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness. The Company will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(a) the Obligations and any other Indebtedness created under the Loan Documents and Indebtedness created under the Chinese Credit Facility;

(b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness with Indebtedness of a similar type that does not increase the outstanding principal amount thereof;

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(c) Indebtedness of (i) any Loan Party to any other Loan Party, (ii) any Subsidiary to any Loan Party and (iii) any Subsidiary that is not a Loan Party to any other Subsidiary that is not a Loan Party;

(d) Guarantees by the Company of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Company or any other Subsidiary;

(e) Indebtedness of the Company or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided that (i) such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed \$35,000,000 at any time outstanding;

(f) Subordinated Indebtedness so long as, after giving effect to the incurrence thereof, no Default shall have occurred and be continuing and the Borrowers shall be in compliance, on a pro forma basis after giving effect to such incurrence, with the covenants contained in Section 6.11 recomputed as if such incurrence had occurred on the first day of the period for testing such compliance;

(g) Indebtedness of the Company or any Subsidiary as an account party in respect of trade letters of credit;

(h) (i) Indebtedness of the Company or any Subsidiary under any Swap Agreement otherwise permitted under Section 6.05, (ii) the Guarantee of any Loan Party of any such Indebtedness and (iii) the Guarantee of any Loan Party of the obligations of PSMC, PKL or any of their respective subsidiaries under any Swap Agreement entered into in the ordinary course of business;

(i) the New Mask Shop Obligations; and

(j) unsecured Indebtedness in an aggregate principal amount not exceeding \$25,000,000 at any time outstanding; provided that the aggregate principal amount of Indebtedness of the Company's Subsidiaries other than Photronics China permitted by this clause (j) shall not exceed \$15,000,000 at any time outstanding.

SECTION 6.02. Liens. The Company will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Permitted Encumbrances and Liens created under the Pledge Agreements;

(b) any Lien on any property or asset of the Company or any Subsidiary existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of the Company or any Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

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(c) any Lien existing on any property or asset prior to the acquisition thereof by the Company or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Company or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(d) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within ninety (90) days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Company or any Subsidiary; and

(e) customary bankers' Liens and rights of setoff arising by operation of law and incurred on deposits made in the ordinary course of business;

(f) Liens on certain real property located in Boise, Idaho securing the New Mask Shop Obligations; and

(g) attachments, appeal bonds, judgments and other similar Liens, for sums not exceeding \$1,000,000 in the aggregate arising in connection with court proceedings; provided, that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are being contested in good faith and by appropriate proceedings and adequate reserves in respect thereof have been established on the books of the Company to the extent required by GAAP.

SECTION 6.03. Fundamental Changes and Asset Sales. (a) The Company will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) any of its assets, (including pursuant to a Sale and Leaseback Transaction), or all or any of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Person may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Subsidiary may merge into a Loan Party in a transaction in which the surviving entity is such Loan Party (provided that any such merger involving the Company must result in the Company as the surviving entity), (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to a Loan Party and (iv) the Company and its Subsidiaries may (A) sell inventory, used or surplus equipment and Permitted Investments in the ordinary course of business and real estate located in Dresden, Germany not currently used in the operation of the Company's business, (B) effect sales, trade-ins or dispositions of used equipment for value in the ordinary course of business consistent with past practice, (C) enter into licenses of technology in the ordinary course of business, (D) so long as the Company will continue to own and Control more than 50% of the ordinary voting and economic power of PSMC and Photronics China, sales of shares of the common stock or other equity interests of PSMC or Photronics China (as equitably adjusted for stock splits, stock dividends and the like), and (E) make any other sales, transfers, leases or dispositions of assets with an aggregate book value that, together with the aggregate book value

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of all other assets of the Company and its Subsidiaries previously leased, sold or disposed of as permitted by this clause (E) during any fiscal year of the Company, does not exceed 10% of Consolidated Total Assets (as reflected in the most recent consolidated balance sheet of the Company delivered to the Lenders) and (vi) any Subsidiary (other than a Foreign Subsidiary Borrower) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders; provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04.

(b) The Company will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Company and its Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto, including semi-conductor application processes.

(c) The Company will not change its fiscal year from the annual period which ends on the Sunday closest to October 29 or its fiscal quarters which, during the term of this Agreement, consist of four equal 13 week periods.

SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. The Company will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any Person or any assets of any other Person constituting a business unit, except

(a) Permitted Investments;

(b) with respect to any Foreign Subsidiary, direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the government of the country in which such Foreign Subsidiary is organized or has its principal place of business, in each case maturing within one year from the date of acquisition thereof, so long as the aggregate amount of all such obligations for all Foreign Subsidiaries does not exceed \$5,000,000 in the aggregate at any time outstanding;

(c) loans, advances or investments existing on the date hereof by the Company and the Subsidiaries to or in their respective subsidiaries;

(d) investments, loans or advances made by the Company in or to any Subsidiary and made by any Subsidiary to the Company (provided that not more than \$25,000,000 in investments, loans or advances or capital contributions may be made and remain outstanding, during the term of this Agreement, by any Loan Party to a Subsidiary which is not a Loan Party).

(e) Guarantees constituting Indebtedness permitted by Section 6.01 and Guarantees by the Company of rental obligations or accounts payable of any Subsidiary;

(f) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

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(g) investments made in connection with a sale of assets permitted by Section 6.03 to the extent of the non-cash consideration received by the Company or a Subsidiary;

(h) Permitted Acquisitions;

(i) investments by the Company or any Subsidiary existing on the date hereof and set forth in Schedule 6.04;

(j) investments by the Company or any Subsidiary after the Effective Date in Joint Ventures that do not exceed \$50,000,000 in the aggregate at any time outstanding; and

(k) any other investment (other than acquisitions), loan or advance (including investments made to meet minimum capital requirements of foreign jurisdictions) so long as the aggregate amount of all such investments does not exceed \$10,000,000 during the term of this Agreement.

SECTION 6.05. Swap Agreements. The Company will not, and will not permit any of its Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Company or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the Company or any of its Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Company or any Subsidiary.

SECTION 6.06. Restricted Payments. (a) The Company will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (i) the Company may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (iii) the Company may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management or employees of the Company and its Subsidiaries and (iv) the Company may make any other Restricted Payment so long as (1) no Default or Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect (including pro forma effect) thereto and (2) the aggregate amount of such Restricted Payments paid by the Company or any Subsidiary does not exceed \$10,000,000 during any fiscal year of the Company unless the Company and the Subsidiaries are in compliance on a pro forma basis reasonably acceptable to the Administrative Agent after giving effect to such Restricted Payment with a maximum Senior Leverage Ratio of 1.5 to 1.0 and a maximum Total Leverage Ratio of 3.0 to 1.0.

(b) The Company will not, and will not permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except: (i) payment of Indebtedness created under the Loan Documents; (ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness (subject to any subordination provisions thereof); (iii) prepayment at the consummation of a Permitted Acquisition of Indebtedness assumed in connection with such Permitted Acquisition; (iv) prepayment, purchase, redemption, retirement or other acquisition of the Convertible Subordinated Notes by exchange for or out of the proceeds received from a substantially concurrent issue of new shares of its non-mandatorily redeemable Equity Interests or from a substantially concurrent incurrence of Subordinated Indebtedness (including mandatorily redeemable Equity Interests of the Company) within 90 days of such

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issuance or incurrence (provided that the foregoing 90 day requirement shall not apply to any prepayment, purchase, redemption, retirement or other acquisition of the Convertible Subordinated Notes outstanding on the Effective Date); (v) so long as at the time thereof and immediately after giving effect (including pro forma effect) thereto no Default shall have occurred and be continuing, prepayment, purchase, redemption, retirement or other acquisition in cash of the Convertible Subordinated Notes outstanding on the Effective Date; and (vi) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness.

SECTION 6.07. Transactions with Affiliates. The Company will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to the Company or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Company and its wholly owned Subsidiaries not involving any other Affiliate, (c) in addition to transactions set forth in Schedule 6.07, transactions with Related Parties not exceeding \$6,000,000 in the aggregate, (d) Indebtedness permitted by Sections 6.01(b) and 6.01(c), investments permitted by Section 6.04 and fundamental changes permitted by Section 6.03 so long as each such transaction is at a price and on terms and conditions not less favorable to the Company or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (e) any Restricted Payment permitted by Section 6.06, (f) transactions existing on the date hereof and set forth in Schedule 6.07 and (g) any Affiliate who is an individual may serve as a director, officer or employee of the Company or such Subsidiary and receive compensation (including stock options) for his or her services in such capacity.

SECTION 6.08. Restrictive Agreements. The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Company or any Subsidiary to

create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to holders of its Equity Interests or to make or repay loans or advances to the Company or any other Subsidiary or to Guarantee Indebtedness of the Company or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.08 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (v) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof and (vi) clause (b) of the foregoing shall not apply to restrictions or conditions imposed by the organizational documents of any Joint Venture to the extent that an investment in such Joint Venture is permitted by Section 6.04(j).

SECTION 6.09. Issuances of Equity Interests by Subsidiaries. The Company will not permit any Subsidiary to issue any additional shares of its Equity Interests other than (a) to the Company or a wholly-owned Subsidiary, (b) any such issuance that does not change the Company's direct or indirect percentage ownership interest in such Subsidiary, (c) any such issuance that is permitted pursuant to Section 6.03 or 6.04 and (d) any such issuance by PKL, PSMC, Photonics China or PKLT Co., Ltd., a Taiwanese corporation, so long as the Company continues to own and control more than 50% of the voting and economic power of such Subsidiary.

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SECTION 6.10. Amendment of Material Documents. The Company will not, and will not permit any Subsidiary to, amend, modify or waive (a) any of its rights under its certificate of incorporation, by-laws or other organizational documents, in each case in any respect adverse to the Lenders or (b) any of the terms of any Subordinated Indebtedness (including, without limitation, the terms contained in any Convertible Subordinated Note Indenture and any Convertible Subordinated Notes), in each case in any respect adverse to the Lenders (for the purposes of this Section 6.10(b) and without limitation of the scope of the definition of "adverse", any amendment to increase the principal amount, the interest rate or fees or other amounts payable, to advance the dates upon which payments are made or to alter any subordination provision (or any definition related thereto) shall be deemed to be "adverse").

SECTION 6.11. Financial Covenants.

(a) Maximum Senior Leverage Ratio. The Company will not permit the ratio (the "Senior Leverage Ratio"), determined as of the end of each of its fiscal quarters ending on and after April 29, 2007, of (i) Consolidated Senior Indebtedness to (ii) Consolidated EBITDA for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Company and its Subsidiaries on a consolidated basis, to be greater than 2.00 to 1.00.

(b) Total Leverage Ratio. The Company will not permit the ratio (the "Total Leverage Ratio"), determined as of the end of each of its fiscal quarters ending on and after April 29, 2007, of (i) Consolidated Total Indebtedness to (ii) Consolidated EBITDA for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Company and its Subsidiaries on a consolidated basis, to be greater than 3.50 to 1.00

(c) Minimum Unrestricted Cash Balances. The Company will not permit the aggregate amount of unrestricted cash balances and Permitted Investments maintained by the Company and its Subsidiaries to be less than \$50,000,000. For the avoidance of doubt, any cash deposited with the Collateral Agent pursuant to the terms of the Pledge Agreements shall be deemed to be unrestricted cash.

## ARTICLE VII

### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of any Borrower or any Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

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(d) (i) the Company shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, 5.03 (with respect to any Borrower's existence), 5.08, 5.09 or 5.10, in Article VI or in Article X or (ii) any Loan Document shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or the Company or any Subsidiary takes any action for the purpose of terminating, repudiating or rescinding any Loan Document or any of its obligations thereunder;

(e) any Borrower or any Subsidiary Guarantor, as applicable, shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after notice thereof from the Administrative Agent to the Company (which notice will be given at the request of any Lender);

(f) the Company or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;



(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Company or any Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Company or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Company or any Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Company or any Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$10,000,000 shall be rendered against the Company, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Company or any Subsidiary to enforce any such judgment;

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(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur; or

(n) within 90 days prior to the Maturity Date, the sum of (i) the Available Revolving Commitment and (ii) the aggregate amount of unrestricted cash balances and Permitted Investments maintained by the Company and its Subsidiaries shall be less than the aggregate principal amount of the Indebtedness then outstanding under the Convertible Subordinated Notes;

then, and in every such event (other than an event with respect to the Company described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Company, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; and in case of any event with respect to any Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers.

Any proceeds of Pledged Equity received by the Administrative Agent after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, such funds shall be applied ratably first, to pay any reasonable out-of-pocket fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Bank from the Loan Parties, second, to pay any fees or expense reimbursements then due to the Lenders from the Loan Parties, third, to pay interest then due and payable on the Loans ratably, fourth, on a ratable basis, to prepay principal on the Loans and unreimbursed LC Disbursements, to pay an amount to the Administrative Agent equal to one hundred five percent (105%) of the aggregate undrawn face amount of all outstanding Letters of Credit and the aggregate amount of any unpaid LC Disbursements to be held as cash collateral for such Obligations, to payment of any amounts owing with respect to Banking Services Obligations and Swap Obligations, and fifth, to the payment of any other Obligation due to the Administrative Agent or any Lender by the Loan Parties. The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Obligations.

## ARTICLE VIII

### The Administrative Agent and the Collateral Agent

Each of the Lenders and the Issuing Bank hereby irrevocably appoints JPMorgan Chase Bank, National Association as Administrative Agent and Collateral Agent hereunder and under each other Loan Document, and each of the Lenders and the Issuing Bank authorizes each of the Agents to enter into the Intercreditor Agreement on behalf of such Lender and the Issuing Bank (each Lender and the Issuing

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Bank hereby agreeing to be bound by the terms of the Intercreditor Agreement as if it were a party thereto) and to take such actions on its behalf and to exercise such powers as are delegated to the Agents by the terms hereof and the terms of the other Loan Documents, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with Company or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

No Agent shall have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that such Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth herein, no Agent shall have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Subsidiaries that is communicated to or obtained by the bank serving as either Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. No Agent shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Company or a Lender, and neither Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent or (vi) the creation, perfection or priority of Liens on the Pledged Equity or the existence of the Pledged Equity.

The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Agents also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Agents may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Either Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. The Agents and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Agents and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as an Agent.

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Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Company. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Company, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by any Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between such Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon either Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon either Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder.

None of the Lenders, if any, identified in this Agreement as a Co-Syndication Agent shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender. Each Lender hereby makes the same acknowledgments with respect to the relevant Lenders in their respective capacities as Co-Syndication Agents as it makes with respect to the Administrative Agent in the preceding paragraph.

In its capacity, the Collateral Agent is a "representative" of the Holders of Secured Obligations within the meaning of the term "secured party" as defined in the New York Uniform Commercial Code. Each Lender authorizes the Collateral Agent to enter into each of the Pledge Agreements to which it is a party and to take all action contemplated by such documents. Each Lender agrees that no Holder of Secured Obligations (other than the Collateral Agent) shall have the right individually to seek to realize upon the security granted by any Pledge Agreement, it being understood and agreed that such rights and remedies may be exercised solely by the Collateral Agent for the benefit of the Holders of Secured Obligations upon the terms of the Pledge Agreements. In the event that any Pledged Equity is hereafter pledged by any Person as collateral security for the Obligations, the Collateral Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Holders of Secured Obligations any Loan Documents necessary or appropriate to grant and perfect a Lien on such Pledged Equity in favor of the Collateral Agent on behalf of the Holders of Secured Obligations. The Lenders hereby authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Pledged Equity (i) as described in Section 9.02(c); (ii) as permitted by, but only in accordance with, the terms of the applicable Loan Document; or (iii) if approved, authorized or ratified in writing by the Required Lenders, unless such release is required to be approved by all of the Lenders hereunder. Upon request by the Collateral Agent at any time, the Lenders will confirm in writing the Collateral Agent's authority to release particular types

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or items of Pledged Equity pursuant hereto. Upon any sale or transfer of assets constituting Pledged Equity which is permitted pursuant to the terms of any Loan Document, or consented to in writing by the Required Lenders or all of the Lenders, as applicable, and upon at least five Business Days' prior written request by

the Company to the Collateral Agent, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Holders of Secured Obligations herein or pursuant hereto upon the Pledged Equity that was sold or transferred; provided, however, that (i) the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent's opinion, would expose the Collateral Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Liens upon (or obligations of the Company or any Subsidiary in respect of) all interests retained by the Company or any Subsidiary, including (without limitation) the proceeds of the sale, all of which shall continue to constitute part of the Pledged Equity.

In connection with a Foreign Subsidiary Borrower organized under the laws of England and Wales (a "UK Borrower"), each Lender (i) irrevocably appoints the Administrative Agent to act as syndicate manager under, and authorizes the Administrative Agent to operate, and take any action necessary or desirable under, the Provisional Treaty Relief scheme as described in the United Kingdom's Inland Revenue Guidelines dated January 2003 and administered by the United Kingdom's H.M. Revenue & Custom's Centre for Non-Residents (the "PTR Scheme") in connection with this Agreement, (ii) shall co-operate with the Administrative Agent in completing any procedural formalities necessary under the PTR Scheme, and shall promptly supply to the Administrative Agent such information as the Administrative Agent may request in connection with the operation of the PTR Scheme and (iii) without limiting the liability of any UK Borrower under this Agreement, shall, within 5 Business Days of demand, indemnify the Administrative Agent for any liability or loss incurred by the Administrative Agent as a result of the Administrative Agent acting as syndicate manager under the PTR Scheme in connection with such Lender's participation in any Loan (except to the extent that the liability or loss arises directly from the Administrative Agent's gross negligence or willful misconduct). Each UK Borrower acknowledges that it is fully aware of its contingent obligations under the PTR Scheme and shall promptly supply to the Administrative Agent such information as the Administrative Agent may request in connection with the operation of the PTR Scheme and act in accordance with any provisional notice issued by the UK Inland Revenue under the PTR Scheme. The Administrative Agent agrees to provide, as soon as reasonably practicable, a copy of any provisional authority issued to it under the PTR Scheme in connection with any Loan to any UK Borrower. All parties hereto acknowledge that (i) the Administrative Agent is entitled to rely completely upon information provided to it in connection with this paragraph, (ii) is not obliged to undertake any enquiry into the accuracy of such information, nor into the taxation status of any Lender or, as the case may be, any UK Borrower providing such information and (iii) shall have no liability to any person for the accuracy of any information it submits in connection with this paragraph.

Each Borrower, on its behalf and on behalf of its Subsidiaries, and each Lender, on its behalf and on the behalf of its affiliated Holders of Secured Obligations, hereby irrevocably constitute the Collateral Agent as the holder of an irrevocable power of attorney (*fondé de pouvoir* within the meaning of Article 2692 of the Civil Code of Québec) in order to hold hypothecs and security granted by each Borrower or any Subsidiary on property pursuant to the laws of the Province of Quebec to secure obligations of any Borrower or any Subsidiary under any bond, debenture or similar title of indebtedness issued by any Borrower or any Subsidiary in connection with this Agreement, and agree that the Collateral Agent may act as the bondholder and mandatary with respect to any bond, debenture or similar title of indebtedness that may be issued by any Borrower or any Subsidiary and pledged in favor of the Holder of Secured Obligations in connection with this Agreement. Notwithstanding the provisions of Section 32 of the An Act respecting the special powers of legal persons (Quebec), JPMorgan Chase Bank,

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National Association as Collateral Agent may acquire and be the holder of any bond issued by any Borrower or any Subsidiary in connection with this Agreement (i.e., the *fondé de pouvoir* may acquire and hold the first bond issued under any deed of hypothec by any Borrower or any Subsidiary).

The Collateral Agent is hereby authorized to execute and deliver any documents necessary or appropriate to create and perfect the rights of pledge for the benefit of the Holders of Secured Obligations including a right of pledge with respect to the entitlements to profits, the balance left after winding up and the voting rights of the Company as ultimate parent of any subsidiary of the Company which is organized under the laws of the Netherlands and the Equity Interests of which are pledged in connection herewith (a "Dutch Pledge"). Without prejudice to the provisions of this Agreement and the other Loan Documents, the parties hereto acknowledge and agree with the creation of parallel debt obligations of the Company or any relevant Subsidiary as will be described in any Dutch Pledge (the "Parallel Debt"), including that any payment received by the Collateral Agent in respect of the Parallel Debt will - conditionally upon such payment not subsequently being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, preference, liquidation or similar laws of general application - be deemed a satisfaction of a pro rata portion of the corresponding amounts of the Obligations, and any payment to the Holders of Secured Obligations in satisfaction of the Obligations shall - conditionally upon such payment not subsequently being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, preference, liquidation or similar laws of general application - be deemed as satisfaction of the corresponding amount of the Parallel Debt. The parties hereto acknowledge and agree that, for purposes of a Dutch Pledge, any resignation by the Collateral Agent is not effective until its rights under the Parallel Debt are assigned to the successor Collateral Agent.

The Collateral Agent shall administer any Pledge Agreement which is governed by German law and is a pledge (Pfandrecht) or otherwise transferred to any Holder of Secured Obligations under an accessory security right (akzessorische Sicherheit) in the name and on behalf of the Holders of Secured Obligations. In relation to any Pledge Agreement governed by the laws of Germany, each party hereby authorizes the Collateral Agent to accept as its representative any pledge or other creation of any accessory security right made to such party in relation to this Agreement and to agree to and execute on its behalf as its representative amendments, supplements and other alterations to any Pledge Agreement governed by the laws of Germany which creates a pledge or any other accessory security right and to release on behalf of such party any Pledge Agreement governed by the laws of Germany in accordance with the provisions herein and/or the provisions in the relevant German law governed pledge agreement.

## ARTICLE IX

### Miscellaneous

SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to any Borrower, to it c/o Photronics, Inc., 15 Secor Road, Brookfield, Connecticut 06804, Attention of Sean T. Smith (Telecopy No. (203) 775-5601; Telephone No. (203) 740-5671), with a copy (in the case of notices of Default) to Attention of Edwin Lewis, Esq. (Telecopy No. (203) 775-5601; Telephone No. (203) 740-5312);

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(ii) if to the Administrative Agent or Collateral Agent, to JPMorgan Chase Bank, National Association, 10 South Dearborn Street, 7<sup>th</sup> Floor, Chicago, Illinois 60603, Attention of Anthony Catron (Telecopy No. (312) 385-7096), with a copy to JPMorgan Chase Bank, National Association, 277 Park Avenue, New York, New York, Attention of Anne Biancardi (Telecopy No. (646) 534-3078), or, in the case of Borrowings in euro or Pounds Sterling by the Company or by a Foreign Borrower organized in Europe, to JP Morgan Europe Limited, 125 London Wall, London EC2Y 5AJ, Attention of James Beard (Telecopy No. +44 (0) 207 777 2360), or, in the case of Borrowings in other Foreign Currencies or by a Foreign Borrower not organized in Europe, at such other office of the Administrative Agent as is specified from time to time;

(iii) if to the Issuing Bank, to it at JPMorgan Chase Bank, National Association, 10 South Dearborn Street, 7th Floor, Chicago, Illinois 60603, Attention of Anthony Catron (Telecopy No. (312) 385-7096);

(iv) if to the Swingline Lender, to it at JPMorgan Chase Bank, National Association, 10 South Dearborn Street, 7th Floor, Chicago, Illinois 60603, Attention of Anthony Catron (Telecopy No. (312) 385-7096));and

(v) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Company may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Section 2.20 with respect to an Expansion Loan Amendment, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to

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an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change Section 2.18(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that, solely with the consent of the parties prescribed by Section 2.20 to be parties to an Expansion Loan Amendment, Expansion Term Loans and Expansion Foreign Loans (as defined in Section 2.20) may be included in the determination of Required Lenders on substantially the same basis as the Commitments and the Revolving Loans are included on the Effective Date) or (vi) release the Company or all or substantially all of the Subsidiary Guarantors from their obligations under Article X or the Subsidiary Guaranty or release all or substantially all of the Pledged Equity, as applicable, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Agent, the Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, the Collateral Agent, the Issuing Bank or the Swingline Lender, as the case may be.

(c) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the parties prescribed in Section 2.20 and each Loan Party party to each relevant Loan Document (i) to add Expansion Term Loans and Expansion Foreign Loans to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans and the accrued interest and fees in respect thereof, (ii) to include appropriately the Lenders holding such Expansion Term Loans and Expansion Foreign Loans in any determination of the Required Lenders and Lenders and (iii) to give effect to the risk participation by the Lenders in the Expansion Foreign Loans.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Agents and their Affiliates, including the reasonable fees, charges and disbursements of counsel for each Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable out-of-pocket expenses incurred by the Agents, the Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for either Agent, the Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Agents, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and

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related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or from the breach of such Indemnitee’s obligations under the Loan Documents.

(c) To the extent that the Company fails to pay any amount required to be paid by it to the Agents, the Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the relevant Agent, the Issuing Bank or the Swingline Lender, as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (it being understood that the Borrower’s failure to pay any such amount shall not relieve the Borrower of any default in the payment thereof); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the relevant Agent, the Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than fifteen (15) days after written demand therefor.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

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(b)(i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Company, provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent; and

(C) the Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Company and the Administrative Agent otherwise consent, provided that no such consent of the Company shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender’s rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

For the purposes of this Section 9.04(b), the term “Approved Fund” has the following meaning:

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering

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all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of each Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Issuing Bank and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Company, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee’s completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Company, the Administrative Agent, the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.15 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with

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the Company’s prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 2.17(e) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to

the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or

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demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Borrower against any of and all the obligations of such Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmaturing. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against any Borrower or its properties in the courts of any jurisdiction.

(c) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Each Foreign Subsidiary Borrower irrevocably designates and appoints the Company, as its authorized agent, to accept and acknowledge on its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal or New York State court sitting in New York City. The Company hereby represents, warrants and confirms that the Company has agreed to accept such appointment (and any similar appointment by a Subsidiary Guarantor which is a Foreign Subsidiary). Said designation and appointment shall be irrevocable by each such Foreign Subsidiary Borrower until all Loans, all reimbursement obligations, interest thereon and all other amounts payable by such Foreign Subsidiary Borrower hereunder and under the other Loan Documents shall have been paid in full in accordance with the provisions hereof and thereof and such Foreign Subsidiary Borrower shall have been terminated as a Borrower hereunder pursuant to Section 2.23. Each Foreign Subsidiary Borrower hereby consents to process being served in any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal or New York State court sitting in New York City by service of process upon the Company as provided in this Section 9.09(d); provided that, to the extent lawful and possible, notice of said service upon such agent shall be mailed by registered or certified air mail, postage prepaid, return receipt requested, to the Company and (if applicable to) such Foreign Subsidiary Borrower at its address set forth in the Borrowing Subsidiary Agreement to which it is a party or to any other address of which such Foreign Subsidiary Borrower shall have given written notice to the Administrative Agent (with a copy thereof to the Company). Each Foreign Subsidiary Borrower irrevocably waives, to the fullest extent

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permitted by law, all claim of error by reason of any such service in such manner and agrees that such service shall be deemed in every respect effective service of process upon such Foreign Subsidiary Borrower in any such suit, action or proceeding and shall, to the fullest extent permitted by law, be taken and held to be valid and personal service upon and personal delivery to such Foreign Subsidiary Borrower. To the extent any Foreign Subsidiary Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution of a judgment, execution or otherwise), each Foreign Subsidiary Borrower hereby irrevocably waives such immunity in respect of its obligations under the Loan Documents. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to any Borrower and its obligations, (g) with the consent of the Company or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis from a source other than the Company or any of its Subsidiaries. For the purposes of this Section, "Information" means all information received from the Company relating to the Company or its business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Company; provided that, in the case of information received from the Company after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have

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complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") hereby notifies each Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies such Borrower, which information includes the name and address of such Borrower and other information that will allow such Lender to identify such Borrower in accordance with the Act.

## ARTICLE X

### Company Guarantee

In order to induce the Lenders to extend credit to the other Borrowers hereunder, the Company hereby irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, the payment when and as due of the Obligations of such other Borrowers. The Company further agrees that the due and punctual payment of such Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee hereunder notwithstanding any such extension or renewal of any such Obligation.

The Company waives presentment to, demand of payment from and protest to any Borrower of any of the Obligations, and also waives notice of acceptance of its obligations and notice of protest for nonpayment. The obligations of the Company hereunder shall not be affected by (a) the failure of either Agent, the Issuing Bank or any Lender to assert any claim or demand or to enforce any right or remedy against any Borrower under the provisions of this Agreement, any other Loan Document or otherwise; (b) any extension or renewal of any of the Obligations; (c) any rescission, waiver, amendment or modification of, or release from, any of the terms or provisions of this Agreement, or any other Loan Document or agreement; (d) any default, failure or delay, willful or otherwise, in the performance of any of the Obligations; (e) the failure of either Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Obligations, if any; (f) any change in the corporate, partnership or other existence, structure or ownership of any Borrower or any other guarantor of any of the Obligations; (g) the enforceability or validity of the Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Obligations or any part thereof, or any other invalidity or unenforceability relating to or against any Borrower or any other guarantor of any of the Obligations, for any reason related to this Agreement, any Swap Agreement, any other Loan Document, or any provision of applicable law, decree, order or regulation of any jurisdiction purporting to prohibit the payment by such Borrower or any other guarantor of the Obligations, of any of the Obligations or otherwise affecting any term of any of the Obligations; or (h) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of such Borrower or otherwise operate as a discharge of a guarantor as a matter of law or equity or which would impair or eliminate any right of such Borrower to subrogation.

The Company further agrees that its agreement hereunder constitutes a guarantee of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual or collection of any of the Obligations or operated as a discharge thereof) and not merely of collection, and waives any right to require that any resort be had by either Agent, the Issuing Bank or any Lender to any balance of any deposit account or credit on the books of either Agent, the Issuing Bank or any Lender in favor of any Borrower or any other Person.

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The obligations of the Company hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever, by reason of the invalidity, illegality or unenforceability of any of the Obligations, any impossibility in the performance of any of the Obligations or otherwise, except for the prior indefeasible payment in full in cash of all the Obligations. Nothing contained in this Article X is intended to, or shall limit, restrict or preclude the Company from pursuing and maintaining a separate legal action based on the acts or omissions of the either Agent or any Lender in connection with any such Person's gross negligence or willful misconduct.

The Company further agrees that its obligations hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by either Agent, the Issuing Bank or any Lender upon the bankruptcy or reorganization of any Borrower or otherwise.

In furtherance of the foregoing and not in limitation of any other right which either Agent, the Issuing Bank or any Lender may have at law or in equity against any Borrower by virtue hereof, upon the failure of any other Borrower to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will, upon receipt of written demand by either Agent, the Issuing Bank or any Lender, forthwith pay, or cause to be paid, to the relevant Agent, the Issuing Bank or any Lender in cash an amount equal to the unpaid principal amount of such Obligations then due, together with accrued and unpaid interest thereon. The Company further agrees that if payment in respect of any Obligation shall be due in a currency other than Dollars and/or at a place of payment other than New York or any other Eurocurrency Payment Office and if, by reason of any



Change in Law, disruption of currency or foreign exchange markets, war or civil disturbance or other event, payment of such Obligation in such currency or at such place of payment shall be impossible or, in the reasonable judgment of either Agent, the Issuing Bank or any Lender, disadvantageous to the relevant Agent, the Issuing Bank or any Lender in any material respect, then, at the election of the relevant Agent, the Company shall make payment of such Obligation in Dollars (based upon the applicable Equivalent Amount in effect on the date of payment) and/or in New York or such other Eurocurrency Payment Office as is designated by the Administrative Agent and, as a separate and independent obligation, shall indemnify the Agents, the Issuing Bank and any Lender against any losses or reasonable out-of-pocket expenses that it shall sustain as a result of such alternative payment.

Upon payment by the Company of any sums as provided above, all rights of the Company against any Borrower arising as a result thereof by way of right of subrogation or otherwise shall in all respects be subordinated and junior in right of payment to the prior indefeasible payment in full in cash of all the Obligations owed by such Borrower to the Agents, the Issuing Bank and the Lenders.

Nothing shall discharge or satisfy the liability of the Company hereunder except the full performance and payment in cash of the Obligations.

[Signature Pages Follow]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

PHOTRONICS, INC., as the Company

By \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, individually as a Lender, as Swingline Lender, as Issuing Bank and as Administrative Agent

By \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as Collateral Agent

By \_\_\_\_\_  
Name:  
Title:

[OTHER AGENTS AND LENDERS]

Signature Page to Credit Agreement  
Photronics, Inc.

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SCHEDULE 2.01

COMMITMENTS

LENDER	COMMITMENT
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION	\$25,000,000
CITIZENS BANK OF MASSACHUSETTS	\$22,500,000
HSBC BANK USA, NATIONAL ASSOCIATION	\$22,500,000
CITIBANK, N.A.	\$22,500,000
BANK OF AMERICA, N.A.	\$17,500,000
UBS LOAN FINANCE LLC	\$15,000,000
<b>AGGREGATE COMMITMENT</b>	<b>\$125,000,000</b>

SCHEDULE 2.02

MANDATORY COST

- The Mandatory Cost is an addition to the interest rate to compensate Lenders for the cost of compliance with (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions) or (b) the requirements of the European Central Bank.
- On the first day of each Interest Period (or as soon as possible thereafter) the Administrative Agent shall calculate, as a percentage rate, a rate (the “Associated Costs Rate”) for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Administrative Agent as a weighted average of the Lenders’ Associated Costs Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum.
- The Associated Costs Rate for any Lender lending from a Facility Office in a Participating Member State will be the percentage notified by that Lender to the Administrative Agent. This percentage will be certified by that Lender in its notice to the Administrative Agent to be its reasonable determination of the cost (expressed as a percentage of that Lender’s participation in all Loans made from that Facility Office) of complying with the minimum reserve requirements of the European Central Bank in respect of loans made from that Facility Office.
- The Associated Costs Rate for any Lender lending from a Facility Office in the United Kingdom will be calculated by the Administrative Agent as follows:

- in relation to a Loan in Pounds Sterling:

$$\frac{AB + C(B - D) + E \times 0.01}{100 - (A + C)} \text{ per cent. per annum}$$

- in relation to a Loan in any currency other than Pounds Sterling:

$$\frac{E \times 0.01}{300} \text{ per cent. per annum.}$$

Where:

A is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

B is the percentage rate of interest (excluding the Applicable Rate and the Mandatory Cost and, if the Loan is an Unpaid Sum, the additional rate of interest specified in Section 2.13(c)) payable for the relevant Interest Period on the Loan.

C is the percentage (if any) of Eligible Liabilities which that Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

D is the percentage rate per annum payable by the Bank of England to the Administrative Agent on interest bearing Special Deposits.

E is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Administrative Agent as being the average of the most recent rates of charge supplied by the Reference Banks to the Administrative Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

- For the purposes of this Schedule:

- “**Eligible Liabilities**” and “**Special Deposits**” have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;

- “**Facility Office**” means the office or offices notified by a Lender to the Administrative Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations

under this Agreement.

- (c) **“Fees Rules”** means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;
  - (d) **“Fee Tariffs”** means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate);
  - (e) **“Participating Member State”** means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.
  - (f) **“Reference Banks”** means, in relation to Mandatory Cost, the principal London offices of JPMorgan Chase Bank, National Association.
  - (g) **“Tariff Base”** has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.
  - (h) **“Unpaid Sum”** means any sum due and payable but unpaid by any Borrower under the Loan Documents.
6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5 per cent. will be included in the formula as 5 and not as 0.05). A negative

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result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

- 7. If requested by the Administrative Agent, each Reference Bank shall, as soon as practicable after publication by the Financial Services Authority, supply to the Administrative Agent, the rate of charge payable by that Reference Bank to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by that Reference Bank as being the average of the Fee Tariffs applicable to that Reference Bank for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of that Reference Bank.
- 8. Each Lender shall supply any information required by the Administrative Agent for the purpose of calculating its Associated Costs Rate. In particular, but without limitation, each Lender shall supply the following information on or prior to the date on which it becomes a Lender:
  - (i) the jurisdiction of its Facility Office; and
  - (j) any other information that the Administrative Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Administrative Agent of any change to the information provided by it pursuant to this paragraph.

- 9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Reference Bank for the purpose of E above shall be determined by the Administrative Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Administrative Agent to the contrary, each Lender’s obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the same jurisdiction as its Facility Office.
- 10. The Administrative Agent shall have no liability to any person if such determination results in an Associated Costs Rate which over or under compensates any Lender and shall be entitled to assume that the information provided by any Lender or Reference Bank pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.
- 11. The Administrative Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Associated Costs Rate for each Lender based on the information provided by each Lender and each Reference Bank pursuant to paragraphs 3, 7 and 8 above.
- 12. Any determination by the Administrative Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Associated Costs Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

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- 13. The Administrative Agent may from time to time, after consultation with the Company and the relevant Lenders, determine and notify to all parties hereto any amendments which are required to be made to this Schedule 2.02 in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

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This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the "Assignor") and [Insert name of Assignee] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and Swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

- 1. Assignor: \_\_\_\_\_
- 2. Assignee: \_\_\_\_\_  
[and is an Affiliate/Approved Fund of [identify Lender]<sup>1</sup>]
- 3. Borrowers: Photronics, Inc. and certain Foreign Subsidiary Borrowers
- 4. Administrative Agent: JPMorgan Chase Bank, National Association, as the administrative agent under the Credit Agreement
- 5. Credit Agreement: The Credit Agreement dated as of June 6, 2007 among Photronics, Inc., the Foreign Subsidiary Borrowers from time to time parties thereto, the Lenders parties thereto, JPMorgan Chase Bank, National Association, as Administrative Agent, and the other agents parties thereto
- 6. Assigned Interest:  
\_\_\_\_\_

<sup>1</sup> Select as applicable.

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans <sup>2</sup>
\$	\$	%
\$	\$	%
\$	\$	%

Effective Date: \_\_\_\_\_, 20\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR  
[NAME OF ASSIGNOR]  
By: \_\_\_\_\_  
Title:

ASSIGNEE  
[NAME OF ASSIGNEE]  
By: \_\_\_\_\_  
Title:

Consented to and Accepted:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as Administrative Agent

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

[Consented to:]<sup>3</sup>

PHOTRONICS, INC.

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

\_\_\_\_\_

<sup>2</sup> Set forth, so at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

<sup>3</sup> To be added only if the consent of the Company is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and

Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B

OPINION OF COUNSEL FOR THE LOAN PARTIES

[Attached]

EXHIBIT C

FORM OF INCREASING LENDER SUPPLEMENT

INCREASING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_ (this "Supplement"), by and among each of the signatories hereto, to the Credit Agreement, dated as of June 6, 2007 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Photonics, Inc. (the "Company"), the Foreign Subsidiary Borrowers from time to time party thereto, the Lenders party thereto and JPMorgan Chase Bank, National Association, as administrative agent (in such capacity, the "Administrative Agent").

WITNESSETH

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the Borrower has the right, subject to the terms and conditions thereof, to effectuate from time to time an increase in the aggregate Commitments and/or one or more tranches of Expansion Term Loans and Expansion Foreign Loans under the Credit Agreement by requesting one or more Lenders to increase the amount of its Commitment and/or to participate in such a tranche;

WHEREAS, the Borrower has given notice to the Administrative Agent of its intention to request [an increase the aggregate Commitments] [and] [a tranche of Expansion Term Loans] [and] [a tranche of Expansion Foreign Loans] pursuant to such Section 2.20; and

WHEREAS, pursuant to Section 2.20 of the Credit Agreement, the undersigned Increasing Lender now desires to [increase the amount of its Commitment] [and] [participate in a tranche of Expansion Term Loans] [and] [participate in a tranche of Expansion Foreign Loans] under the Credit Agreement by executing and delivering to the Borrower and the Administrative Agent this Supplement;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Increasing Lender agrees, subject to the terms and conditions of the Credit Agreement, that on the date of this Supplement it shall [have its Commitment increased by \$[\_\_\_\_\_], thereby making the aggregate amount of its total Commitments equal to \$[\_\_\_\_\_]] [and] [participate in a tranche of Expansion Term Loans with a Commitment amount equal to \$[\_\_\_\_\_] with respect thereto] [and] [participate in a tranche of Expansion Foreign Loans with a Commitment equal to \$[\_\_\_\_\_] with respect thereto].

2. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

3. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

4. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

5. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF INCREASING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the date first written above:

PHOTRONICS, INC.

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

FORM OF AUGMENTING LENDER SUPPLEMENT

AUGMENTING LENDER SUPPLEMENT, dated \_\_\_\_\_, 20\_\_ (this "Supplement"), to the Credit Agreement, dated as of June 6, 2007 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Photronics, Inc. (the "Company"), the Foreign Subsidiary Borrowers from time to time party thereto, the Lenders party thereto and JPMorgan Chase Bank, National Association, as administrative agent (in such capacity, the "Administrative Agent").

WITNESSETH

WHEREAS, the Credit Agreement provides in Section 2.20 thereof that any bank, financial institution or other entity may [extend Commitments] [and] [participate in tranches of Expansion Term Loans] [and] [participate in tranches of Expansion Foreign Loans] under the Credit Agreement subject to the approval of the Company and the Administrative Agent, by executing and delivering to the Company and the Administrative Agent a supplement to the Credit Agreement in substantially the form of this Supplement; and

WHEREAS, the undersigned Augmenting Lender was not an original party to the Agreement but now desires to become a party thereto;

NOW, THEREFORE, each of the parties hereto hereby agrees as follows:

1. The undersigned Augmenting Lender agrees to be bound by the provisions of the Credit Agreement and agrees that it shall, on the date of this Supplement, become a Lender for all purposes of the Credit Agreement to the same extent as if originally a party thereto, with a [Commitment with respect to Revolving Loans of \$[\_\_\_\_\_]] [and] [a Commitment with respect to Expansion Term Loans of \$[\_\_\_\_\_]] [and] [a Commitment with respect to Expansion Foreign Loans of \$[\_\_\_\_\_]].

2. The undersigned Augmenting Lender (a) represents and warrants that it is legally authorized to enter into this Supplement; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and has reviewed such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (c) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; and (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender.

3. The undersigned's address for notices for the purposes of the Credit Agreement is as follows:

[\_\_\_\_\_]

4. The Company hereby represents and warrants that no Default or Event of Default has occurred and is continuing on and as of the date hereof.

5. Terms defined in the Credit Agreement shall have their defined meanings when used herein.

6. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

7. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same document.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Supplement to be executed and delivered by a duly authorized officer on the date first above written.

[INSERT NAME OF AUGMENTING LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the date first written above:

PHOTRONICS, INC.

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged as of the date first written above:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT E

LIST OF CLOSING DOCUMENTS

**PHOTRONICS, INC.**  
**CERTAIN FOREIGN SUBSIDIARY BORROWERS**

**CREDIT FACILITIES**

June 6, 2007

LIST OF CLOSING DOCUMENTS<sup>1</sup>

**A. LOAN DOCUMENTS**

1. Credit Agreement (the "Credit Agreement") by and among Photronics, Inc., a Connecticut corporation (the "Company"), the Foreign Subsidiary Borrowers from time to time parties thereto (collectively with the Company, the "Borrowers"), the institutions from time to time parties thereto as Lenders (the "Lenders") and JPMorgan Chase Bank, National Association, in its capacity as Administrative Agent for itself and the other Lenders (the "Administrative Agent") and as Collateral Agent, evidencing a revolving credit facility to the Borrowers from the Lenders in an initial aggregate principal amount of \$125,000,000.

SCHEDULES

<i>Schedule 1.01</i>	--	<i>Consolidated EBITDA/Net Income</i>
Schedule 2.01	--	Commitments
Schedule 2.02	--	Mandatory Cost
<i>Schedule 3.01</i>	--	<i>Subsidiaries</i>
<i>Schedule 6.01</i>	--	<i>Existing Indebtedness</i>
<i>Schedule 6.02</i>	--	<i>Existing Liens</i>
<i>Schedule 6.04</i>	--	<i>Existing Investments; Acquisitions</i>
<i>Schedule 6.07</i>	--	<i>Affiliate Transactions</i>
<i>Schedule 6.08</i>	--	<i>Existing Restrictions</i>

EXHIBITS

Exhibit A	--	Form of Assignment and Assumption
Exhibit B	--	Form of Opinion of Loan Parties' Counsel
Exhibit C	--	Form of Increasing Lender Supplement
Exhibit D	--	Form of Augmenting Lender Supplement
Exhibit E	--	List of Closing Documents
Exhibit F-1	--	Form of Borrowing Subsidiary Agreement
Exhibit F-2	--	Form of Borrowing Subsidiary Termination
Exhibit G	--	Form of Subsidiary Guaranty

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<sup>1</sup> Each capitalized term used herein and not defined herein shall have the meaning assigned to such term in the above-defined Credit Agreement. Items appearing in **bold** and *italics* shall be prepared and/or provided by the Company and/or Company's counsel

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Exhibit H	--	Form of Pledge Agreement
Exhibit I	--	Form of Intercreditor Agreement



2. Notes executed by the initial Borrowers in favor of each of the Lenders, if any, which has requested a note pursuant to Section 2.10(e) of the Credit Agreement.
3. Guaranty executed by the initial Subsidiary Guarantors (collectively with the Borrowers, the "Loan Parties") in favor of the Administrative Agent.

#### B. CORPORATE DOCUMENTS

4. *Certificate of the Secretary or an Assistant Secretary of each Loan Party certifying (i) that there have been no changes in the Certificate of Incorporation or other charter document of such Loan Party, as attached thereto and as certified as of a recent date by the Secretary of State of the jurisdiction of its organization, since the date of the certification thereof by such secretary of state, (ii) the By-Laws or other applicable organizational document, as attached thereto, of such Loan Party as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of such Loan Party authorizing the execution, delivery and performance of each Loan Document to which it is a party, and (iv) the names and true signatures of the incumbent officers of each Loan Party authorized to sign the Loan Documents to which it is a party, and (in the case of the Company) authorized to request a Borrowing or an LC Disbursement under the Credit Agreement.*
5. *Good Standing Certificate for each Loan Party from the Secretary of State of the jurisdiction of its organization.*

#### C. OPINIONS

6. *Opinion of Brenner, Saltzman & Wallman LLP, counsel for the initial Loan Parties.*
7. *Opinion of Edwin Lewis, Esq., General Counsel for the initial Loan Parties.*

#### D. CLOSING CERTIFICATES AND MISCELLANEOUS

8. *A Certificate signed by the President, a Vice President or a Financial Officer of the Company certifying the following: (i) all of the representations and warranties of the Company set forth in the Credit Agreement are true and correct and (ii) no Default has occurred and is then continuing.*

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EXHIBIT F-1

[FORM OF]

#### BORROWING SUBSIDIARY AGREEMENT

BORROWING SUBSIDIARY AGREEMENT dated as of [\_\_\_\_], among Photronics, Inc., a Connecticut corporation (the "Company"), [Name of Foreign Subsidiary Borrower], a [\_\_\_\_\_] (the "New Borrowing Subsidiary"), and JPMorgan Chase Bank, National Association as Administrative Agent (the "Administrative Agent").

Reference is hereby made to the Credit Agreement dated as of June 6, 2007 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Company, the Foreign Subsidiary Borrowers from time to time party thereto, the Lenders from time to time party thereto and JPMorgan Chase Bank, National Association as Administrative Agent. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement. Under the Credit Agreement, the Lenders have agreed, upon the terms and subject to the conditions therein set forth, to make Loans to certain Foreign Subsidiary Borrowers (collectively with the Company, the "Borrowers"), and the Company and the New Borrowing Subsidiary desire that the New Borrowing Subsidiary become a Foreign Subsidiary Borrower. In addition, the New Borrowing Subsidiary hereby authorizes the Company to act on its behalf as and to the extent provided for in Article II of the Credit Agreement. [Notwithstanding the preceding sentence, the New Borrowing Subsidiary hereby designates the following officers as being authorized to request Borrowings under the Credit Agreement on behalf of the New Subsidiary Borrower and sign this Borrowing Subsidiary Agreement and the other Loan Documents to which the New Borrowing Subsidiary is, or may from time to time become, a party: [\_\_\_\_\_].]

Each of the Company and the New Borrowing Subsidiary represents and warrants that the representations and warranties of the Company in the Credit Agreement relating to the New Borrowing Subsidiary and this Agreement are true and correct on and as of the date hereof, other than representations given as of a particular date, in which case they shall be true and correct as of that date. [The Company and the New Borrowing Subsidiary further represent and warrant that the execution, delivery and performance by the New Borrowing Subsidiary of the transactions contemplated under this Agreement and the use of any of the proceeds raised in connection with this Agreement will not contravene or conflict with the provisions of section 151 of the Companies Act 1985 of England and Wales (as amended).]<sup>5</sup>[INSERT OTHER PROVISIONS REASONABLY REQUESTED BY ADMINISTRATIVE AGENT OR ITS COUNSELS] The Company agrees that the Guarantee of the Company contained in the Credit Agreement will apply to the Obligations of the New Borrowing Subsidiary. Upon execution of this Agreement by each of the Company, the New Borrowing Subsidiary and the Administrative Agent, the New Borrowing Subsidiary shall be a party to the Credit Agreement and shall constitute a "Foreign Subsidiary Borrower" for all purposes thereof, and the New Borrowing Subsidiary hereby agrees to be bound by all provisions of the Credit Agreement.

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

[Signature Page Follows]

<sup>5</sup> To be included only if a New Borrowing Subsidiary will be a Borrower organized under the laws of England and Wales.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their authorized officers as of the date first appearing above.

PHOTRONICS, INC.

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF NEW BORROWING SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
as Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT F-2

[FORM OF]

BORROWING SUBSIDIARY TERMINATION

JPMorgan Chase Bank, National Association  
as Administrative Agent  
for the Lenders referred to below  
[Address]  
Attention: [\_\_\_\_\_]

[Date]

Ladies and Gentlemen:

The undersigned, Photronics, Inc. (the "Company"), refers to the Credit Agreement dated as of June 6, 2007 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Company, the Foreign Subsidiary Borrowers from time to time party thereto and JPMorgan Chase Bank, National Association, as Administrative Agent. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Company hereby terminates the status of [\_\_\_\_\_] (the "Terminated Borrowing Subsidiary") as a Foreign Subsidiary Borrower under the Credit Agreement. [The Company represents and warrants that no Loans made to the Terminated Borrowing Subsidiary are outstanding as of the date hereof and that all amounts payable by the Terminated Borrowing Subsidiary in respect of interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable under the Credit Agreement) pursuant to the Credit Agreement have been paid in full on or prior to the date hereof.] [The Company acknowledges that the Terminated Borrowing Subsidiary shall continue to be a Borrower until such time as all Loans made to the Terminated Borrowing Subsidiary shall have been prepaid and all amounts payable by the Terminated Borrowing Subsidiary in respect of interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable under the Credit Agreement) pursuant to the Credit Agreement shall have been paid in full, provided that the Terminated Borrowing Subsidiary shall not have the right to make further Borrowings under the Credit Agreement.]

[Signature Page Follows]

This instrument shall be construed in accordance with and governed by the laws of the State of New York.

Very truly yours,

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

Name:

Title:

Copy to: JPMorgan Chase Bank, National Association  
270 Park Avenue  
New York, New York 10017

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EXHIBIT G

[FORM OF]

SUBSIDIARY GUARANTY

GUARANTY

THIS GUARANTY (this "Guaranty") is made as of June 6, 2007, by and among each of the undersigned (the "Initial Guarantors" and along with any additional Subsidiaries of the Company which become parties to this Guaranty by executing a supplement hereto in the form attached as Annex I, the "Guarantors") in favor of the Administrative Agent, for the ratable benefit of the Holders of Guaranteed Obligations (as defined below), under the Credit Agreement referred to below.

WITNESSETH

WHEREAS, Photronics, Inc., a Connecticut corporation (the "Company"), the Foreign Subsidiary Borrowers parties thereto (the "Foreign Subsidiary Borrowers") and, together with the Company, the "Borrowers"), the institutions from time to time parties thereto as lenders (the "Lenders"), and JPMorgan Chase Bank, National Association, as administrative agent (the "Administrative Agent") have entered into a certain Credit Agreement dated as of June 6, 2007 (as the same may be amended, modified, supplemented and/or restated, and as in effect from time to time, the "Credit Agreement"), providing, subject to the terms and conditions thereof, for extensions of credit and other financial accommodations to be made by the Lenders to the Borrowers;

WHEREAS, it is a condition precedent to the extensions of credit by the Lenders under the Credit Agreement that each of the Guarantors (constituting all of the Subsidiary Guarantors required to execute this Guaranty pursuant to Section 5.09 of the Credit Agreement) execute and deliver this Guaranty, whereby each of the Guarantors shall guarantee the payment when due of all Obligations; and

WHEREAS, in consideration of the direct and indirect financial and other support that the Borrowers have provided, and such direct and indirect financial and other support as the Borrowers may in the future provide, to the Guarantors, and in order to induce the Lenders and the Administrative Agent to enter into the Credit Agreement, each of the Guarantors is willing to guarantee the Obligations of the Borrowers;

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Definitions. Terms defined in the Credit Agreement and not otherwise defined herein have, as used herein, the respective meanings provided for therein.

SECTION 2. Representations, Warranties and Covenants. Each of the Guarantors represents and warrants (which representations and warranties shall be deemed to have been renewed at the time of the making, conversion or continuation of any Loan or issuance of any Letter of Credit) that:

(A) It is a corporation, partnership or limited liability company duly and properly incorporated or organized, as the case may be, validly existing and (to the extent such concept

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applies to such entity) in good standing under the laws of its jurisdiction of incorporation, organization or formation and has all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except to the extent that the failure to have such authority could not reasonably be expected to have a Material Adverse Effect.

(B) It (to the extent applicable) has the requisite power and authority and legal right to execute and deliver this Guaranty and to perform its obligations hereunder. The execution and delivery by each Guarantor of this Guaranty and the performance by each of its obligations hereunder have been duly authorized by proper proceedings, and this Guaranty constitutes a legal, valid and binding obligation of such Guarantor, respectively, enforceable against such Guarantor, respectively, in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

(C) Neither the execution and delivery by it of this Guaranty, nor the consummation by it of the transactions herein contemplated, nor compliance by it with the provisions hereof will (i) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on it or its articles or certificate of incorporation (or equivalent charter documents), limited liability company or partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating agreement or other management agreement, as the case may be, or the provisions of any indenture, instrument or

agreement to which any of the Borrowers or any of its Subsidiaries is a party or is subject, or by which it, or its property, is bound, or (ii) conflict with, or constitute a default under, or result in, or require, the creation or imposition of any Lien in, of or on its property pursuant to the terms of, any such indenture, instrument or agreement (other than any Loan Document). No order, consent, adjudication, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, or other action in respect of any governmental or public body or authority, or any subdivision thereof, which has not been obtained by it, is required to be obtained by it in connection with the execution, delivery and performance by it of, or the legality, validity, binding effect or enforceability against it of, this Guaranty.

In addition to the foregoing, each of the Guarantors covenants that, so long as any Lender has any Commitment outstanding under the Credit Agreement or any amount payable under the Credit Agreement or any other Guaranteed Obligations shall remain unpaid, it will, and, if necessary, will enable each of the Borrowers to, fully comply with those covenants and agreements of such Borrower applicable to such Guarantor set forth in the Credit Agreement.

SECTION 3. The Guaranty. Each of the Guarantors hereby unconditionally guarantees, jointly with the other Guarantors and severally, the full and punctual payment and performance when due (whether at stated maturity, upon acceleration or otherwise) of the Obligations, including, without limitation, (i) the principal of and interest on each Loan made to any Borrower pursuant to the Credit Agreement, (ii) any obligations of any Borrower to reimburse LC Disbursements (“Reimbursement Obligations”), (iii) all obligations of any Borrower owing to any Lender or any affiliate of any Lender under any Swap Agreement or Banking Services Agreement, (iv) all other amounts payable by any Borrower or any of its Subsidiaries under the Credit Agreement, any Swap Agreement, any Banking Services Agreement and the other Loan Documents and (v) the punctual and faithful performance, keeping, observance, and fulfillment by any Borrower of all of the agreements, conditions, covenants, and obligations of such Borrower contained in the Loan Documents (all of the foregoing being referred to collectively as the “Guaranteed Obligations” and the holders from time to time of the Guaranteed Obligations being referred to collectively as the “Holders of Guaranteed Obligations”). Upon (x) the failure by any Borrower or any of its Affiliates, as applicable, to pay punctually any such amount or perform such obligation, and (y) such failure continuing beyond any applicable grace or notice and cure

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period, each of the Guarantors agrees that it shall forthwith on demand pay such amount or perform such obligation at the place and in the manner specified in the Credit Agreement, any Swap Agreement, any Banking Services Agreement or the relevant Loan Document, as the case may be. Each of the Guarantors hereby agrees that this Guaranty is an absolute, irrevocable and unconditional guaranty of payment and is not a guaranty of collection.

SECTION 4. Guaranty Unconditional. The obligations of each of the Guarantors hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(A) any extension, renewal, settlement, indulgence, compromise, waiver or release of or with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations, whether (in any such case) by operation of law or otherwise, or any failure or omission to enforce any right, power or remedy with respect to the Guaranteed Obligations or any part thereof or any agreement relating thereto, or with respect to any obligation of any other guarantor of any of the Guaranteed Obligations;

(B) any modification or amendment of or supplement to the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document, including, without limitation, any such amendment which may increase the amount of, or the interest rates applicable to, any of the Obligations guaranteed hereby;

(C) any release, surrender, compromise, settlement, waiver, subordination or modification, with or without consideration, of any collateral securing the Guaranteed Obligations or any part thereof, any other guaranties with respect to the Guaranteed Obligations or any part thereof, or any other obligation of any person or entity with respect to the Guaranteed Obligations or any part thereof, or any nonperfection or invalidity of any direct or indirect security for the Guaranteed Obligations;

(D) any change in the corporate, partnership or other existence, structure or ownership of any Borrower or any other guarantor of any of the Guaranteed Obligations, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting such Borrower or any other guarantor of the Guaranteed Obligations, or any of their respective assets or any resulting release or discharge of any obligation of such Borrower or any other guarantor of any of the Guaranteed Obligations;

(E) the existence of any claim, setoff or other rights which the Guarantors may have at any time against any Borrower, any other guarantor of any of the Guaranteed Obligations, the Administrative Agent, any Holder of Guaranteed Obligations or any other Person, whether in connection herewith or in connection with any unrelated transactions; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(F) the enforceability or validity of the Guaranteed Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Guaranteed Obligations or any part thereof, or any other invalidity or unenforceability relating to or against any Borrower or any other guarantor of any of the Guaranteed Obligations, for any reason related to the Credit Agreement, any Swap Agreement, any Banking Services Agreement, any other Loan Document, or any provision of applicable law decree, order or regulation of any jurisdiction purporting to prohibit the payment by such

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Borrower or any other guarantor of the Guaranteed Obligations, of any of the Guaranteed Obligations or otherwise affecting any term of any of the Guaranteed Obligations;

(G) the failure of the Administrative Agent to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Guaranteed Obligations, if any;

(H) the election by, or on behalf of, any one or more of the Holders of Guaranteed Obligations, in any proceeding instituted under Chapter 11 of Title 11 of the United States Code (11 U.S.C. 101 et seq.) (the “Bankruptcy Code”), of the application of Section 1111(b)(2) of the Bankruptcy Code;

(I) any borrowing or grant of a security interest by any Borrower, as debtor-in-possession, under Section 364 of the Bankruptcy Code;

(J) the disallowance, under Section 502 of the Bankruptcy Code, of all or any portion of the claims of the Holders of Guaranteed Obligations or the Administrative Agent for repayment of all or any part of the Guaranteed Obligations;

(K) the failure of any other guarantor to sign or become party to this Guaranty or any amendment, change, or reaffirmation hereof; or

(L) any other act or omission to act or delay of any kind by any Borrower, any other guarantor of the Guaranteed Obligations, the Administrative Agent, any Holder of Guaranteed Obligations or any other Person or any other circumstance whatsoever which might, but for the provisions of this Section 4, constitute a legal or equitable discharge of any Guarantor's obligations hereunder except as provided in Section 5.

SECTION 5. Discharge Only Upon Payment In Full: Reinstatement In Certain Circumstances. Each of the Guarantors' obligations hereunder shall remain in full force and effect until all Guaranteed Obligations shall have been paid in full in cash and the Commitments and all Letters of Credit issued under the Credit Agreement shall have terminated or expired. If at any time any payment of the principal of or interest on any Loan, any Reimbursement Obligation or any other amount payable by any Borrower or any other party under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, each of the Guarantors' obligations hereunder with respect to such payment shall be reinstated as though such payment had been due but not made at such time. The parties hereto acknowledge and agree that each of the Guaranteed Obligations shall be due and payable in the same currency as such Guaranteed Obligation is denominated but if currency control or exchange regulations are imposed in the country which issues such currency with the result such currency (the "Original Currency") no longer exists or the relevant Guarantor is not able to make payment in such Original Currency, then all payments to be made by such Guarantor hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of payment) of such payment due, it being the intention of the parties hereto that each Guarantor takes all risks of the imposition of any such currency control or exchange regulations.

SECTION 6. General Waivers; Additional Waivers.

(A) General Waivers. Each of the Guarantors irrevocably waives acceptance hereof, presentment, demand or action on delinquency, protest, the benefit of any statutes of limitations and, to the fullest extent permitted by law, any notice not provided for herein, as well as any

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requirement that at any time any action be taken by any Person against any Borrower, any other guarantor of the Guaranteed Obligations, or any other Person.

(B) Additional Waivers. Notwithstanding anything herein to the contrary, each of the Guarantors hereby absolutely, unconditionally, knowingly, and expressly waives:

(i) any right it may have to revoke this Guaranty as to future indebtedness;

(ii) (a) notice of acceptance hereof; (b) notice of any loans or other financial accommodations made or extended under the Loan Documents or the creation or existence of any Guaranteed Obligations; (c) notice of the amount of the Guaranteed Obligations, subject, however, to each Guarantor's right to make inquiry of Administrative Agent and Holders of Guaranteed Obligations to ascertain the amount of the Guaranteed Obligations at any reasonable time; (d) notice of any adverse change in the financial condition of any Borrower or of any other fact that might increase such Guarantor's risk hereunder; (e) notice of presentment for payment, demand, protest, and notice thereof as to any instruments among the Loan Documents; (f) notice of any Default or Event of Default; and (g) all other notices (except if such notice is specifically required to be given to such Guarantor hereunder or under the Loan Documents) and demands to which each Guarantor might otherwise be entitled;

(iii) its right, if any, to require the Administrative Agent and the other Holders of Guaranteed Obligations to institute suit against, or to exhaust any rights and remedies which the Administrative Agent and the other Holders of Guaranteed Obligations has or may have against, the other Guarantors or any third party, or against any Pledged Equity provided by the other Guarantors, or any third party; and each Guarantor further waives any defense arising by reason of any disability or other defense (other than the defense that the Guaranteed Obligations shall have been fully and finally performed and indefeasibly paid) of the other Guarantors or by reason of the cessation from any cause whatsoever of the liability of the other Guarantors in respect thereof;

(iv) (a) any rights to assert against the Administrative Agent and the other Holders of Guaranteed Obligations any defense (legal or equitable), set-off, counterclaim, or claim which such Guarantor may now or at any time hereafter have against the other Guarantors or any other party liable to the Administrative Agent and the other Holders of Guaranteed Obligations; (b) any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Guaranteed Obligations or any security therefor; (c) any defense such Guarantor has to performance hereunder, and any right such Guarantor has to be exonerated, arising by reason of: the impairment or suspension of the Administrative Agent's and the other Holders of Guaranteed Obligations' rights or remedies against the other Guarantors; the alteration by the Administrative Agent and the other Holders of Guaranteed Obligations of the Guaranteed Obligations; any discharge of the other Guarantors' obligations to the Administrative Agent and the other Holders of Guaranteed Obligations by operation of law as a result of the Administrative Agent's and the other Holders of Guaranteed Obligations' intervention or omission; or the acceptance by the Administrative Agent and the other Holders of Guaranteed Obligations of anything in partial satisfaction of the Guaranteed Obligations; and (d) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement thereof, and any act which shall defer or delay the operation of any statute of limitations applicable to the Guaranteed Obligations shall similarly operate to defer or delay the operation of such statute of limitations applicable to such Guarantor's liability hereunder; and

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(v) any defense arising by reason of or deriving from (a) any claim or defense based upon an election of remedies by the Administrative Agent and the other Holders of Guaranteed Obligations; or (b) any election by the Administrative Agent and the other Holders of Guaranteed Obligations under Section 1111(b) of Title 11 of the United States Code entitled "Bankruptcy", as now and hereafter in effect (or any successor statute), to limit the amount of, or any collateral securing, its claim against the Guarantors.

SECTION 7. Subordination of Subrogation; Subordination of Intercompany Indebtedness.

(A) Subordination of Subrogation. Until the Guaranteed Obligations have been fully and finally performed and indefeasibly paid in full in cash, the Guarantors (i) shall have no right of subrogation with respect to such Guaranteed Obligations and (ii) waive any right to enforce any remedy which the Holders of Guaranteed Obligations, the Issuing Bank or the Administrative Agent now have or may hereafter have against any Borrower, any endorser or any guarantor of all or any part of the Guaranteed Obligations or any other Person, and the Guarantors waive any benefit of, and any right to participate in, any security or collateral given to the Holders of Guaranteed Obligations, the Issuing Bank and the Administrative Agent to secure the payment or performance of all or any part of the Guaranteed Obligations or any other liability of any Borrower to the Holders of Guaranteed Obligations or the Issuing Bank. Should any Guarantor have the right, notwithstanding the foregoing, to exercise its subrogation rights, each Guarantor hereby expressly and irrevocably (A) subordinates any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off that such Guarantor may have to the indefeasible payment in full in cash of the Guaranteed Obligations and (B) waives any and all defenses available to a surety, guarantor or accommodation co-obligor until the Guaranteed Obligations are indefeasibly paid in full in cash. Each Guarantor acknowledges and agrees that this subordination is intended to benefit the Administrative Agent and the other Holders of Guaranteed Obligations and shall not limit or otherwise affect such Guarantor's liability hereunder or the enforceability of this Guaranty, and that the Administrative Agent, the other Holders of Guaranteed Obligations and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 7(A).

(B) Subordination of Intercompany Indebtedness. Each Guarantor agrees that any and all claims of such Guarantor against any Borrower or any other Guarantor hereunder (each an "Obligor") with respect to any "Intercompany Indebtedness" (as hereinafter defined), any endorser, obligor or any other guarantor of all or any part of the Guaranteed Obligations, or against any of its properties shall be subordinate and subject in right of payment to the prior payment, in full and in cash, of all Guaranteed Obligations; provided that, as long as no Event of Default has occurred and is continuing, such Guarantor may receive payments of principal and interest from any Obligor with respect to Intercompany Indebtedness. Notwithstanding any right of any Guarantor to ask, demand, sue for, take or receive any payment from any Obligor, all rights, liens and security interests of such Guarantor, whether now or hereafter arising and howsoever existing, in any assets of any other Obligor shall be and are subordinated to the rights of the Holders of Guaranteed Obligations and the Administrative Agent in those assets. No Guarantor shall have any right to possession of any such asset or to foreclose upon any such asset, whether by judicial action or otherwise, unless and until all of the Guaranteed Obligations shall have been fully paid and satisfied (in cash) and all financing arrangements pursuant to any Loan Document, any Swap Agreement or any Banking Services Agreement have been terminated. If all or any part of the assets of any Obligor, or the proceeds thereof, are subject to any distribution, division or application to the creditors of such Obligor, whether partial or complete, voluntary or

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involuntary, and whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding, or if the business of any such Obligor is dissolved or if substantially all of the assets of any such Obligor are sold, then, and in any such event (such events being herein referred to as an "Insolvency Event"), any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any indebtedness of any Obligor to any Guarantor ("Intercompany Indebtedness") shall be paid or delivered directly to the Administrative Agent for application on any of the Guaranteed Obligations, due or to become due, until such Guaranteed Obligations shall have first been fully paid and satisfied (in cash). Should any payment, distribution, security or instrument or proceeds thereof be received by the applicable Guarantor upon or with respect to the Intercompany Indebtedness after any Insolvency Event and prior to the satisfaction of all of the Guaranteed Obligations and the termination of all financing arrangements pursuant to any Loan Document among any Borrower and the Holders of Guaranteed Obligations, such Guarantor shall receive and hold the same in trust, as trustee, for the benefit of the Holders of Guaranteed Obligations and shall forthwith deliver the same to the Administrative Agent, for the benefit of the Holders of Guaranteed Obligations, in precisely the form received (except for the endorsement or assignment of the Guarantor where necessary), for application to any of the Guaranteed Obligations, due or not due, and, until so delivered, the same shall be held in trust by the Guarantor as the property of the Holders of Guaranteed Obligations. If any such Guarantor fails to make any such endorsement or assignment to the Administrative Agent, the Administrative Agent or any of its officers or employees is irrevocably authorized to make the same. Each Guarantor agrees that until the Guaranteed Obligations (other than the contingent indemnity obligations) have been paid in full (in cash) and satisfied and all financing arrangements pursuant to any Loan Document among any Borrower and the Holders of Guaranteed Obligations have been terminated, no Guarantor will assign or transfer to any Person (other than the Administrative Agent) any claim any such Guarantor has or may have against any Obligor.

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SECTION 8. Contribution with Respect to Guaranteed Obligations.

(A) To the extent that any Guarantor shall make a payment under this Guaranty (a "Guarantor Payment") which, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Guarantor if each Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantors as determined immediately prior to the making of such Guarantor Payment, then, following indefeasible payment in full in cash of the Guaranteed Obligations and termination of the Credit Agreement, the Swap Agreements and the Banking Services Agreements, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(B) As of any date of determination, the "Allocable Amount" of any Guarantor shall be equal to the maximum amount of the claim which could then be recovered from such Guarantor under this Guaranty without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law.

(C) This Section 8 is intended only to define the relative rights of the Guarantors, and nothing set forth in this Section 8 is intended to or shall impair the obligations of the Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Guaranty.

(D) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

(E) The rights of the indemnifying Guarantors against other Guarantors under this Section 8 shall be exercisable upon the full and indefeasible payment of the Guaranteed Obligations in cash and the termination of the Credit Agreement, the Swap Agreements and the Banking Services Agreements.

SECTION 9. Stay of Acceleration. If acceleration of the time for payment of any amount payable by any Borrower under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document is stayed upon the insolvency, bankruptcy or reorganization of such Borrower, all such amounts otherwise subject to acceleration under the terms of the Credit Agreement, any Swap Agreement, any Banking Services Agreement or any other Loan Document shall nonetheless be payable by each of the Guarantors hereunder forthwith on demand by the Administrative Agent.

SECTION 10. Notices. All notices, requests and other communications to any party hereunder shall be given in the manner prescribed in Article IX of the Credit Agreement with respect to the Administrative Agent at its notice address therein and with respect to any Guarantor, in care of the Company at the address of the Company set forth in the Credit Agreement or such other address or telecopy number as such party may hereafter specify for such purpose by notice to the Administrative Agent in accordance with the provisions of such Article IX.

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SECTION 11. No Waivers. No failure or delay by the Administrative Agent or any other Holder of Guaranteed Obligations in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Guaranty, the Credit Agreement, any Swap Agreement, any Banking Services Agreement and the other Loan Documents shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 12. Successors and Assigns. This Guaranty is for the benefit of the Administrative Agent and the other Holders of Guaranteed Obligations and their respective successors and permitted assigns; provided, that no Guarantor shall have any right to assign its rights or obligations hereunder without the consent of all of the Lenders, and any such assignment in violation of this Section 12 shall be null and void; and in the event of an assignment of any amounts payable under the Credit Agreement, any Swap Agreement, any Banking Services Agreement or the other Loan Documents in accordance with the respective terms thereof, the rights hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Guaranty shall be binding upon each of the Guarantors and their respective successors and assigns.

SECTION 13. Changes in Writing. Other than in connection with the addition of additional Subsidiaries, which become parties hereto by executing a supplement hereto in the form attached as Annex I, neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated orally, but only in writing signed by each of the Guarantors and the Administrative Agent with the consent of the Required Lenders under the Credit Agreement.

SECTION 14. GOVERNING LAW. THIS GUARANTY SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

SECTION 15. CONSENT TO JURISDICTION; SERVICE OF PROCESS; JURY TRIAL; IMMUNITY.

(A) CONSENT TO JURISDICTION. EACH GUARANTOR HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY AND EACH GUARANTOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER TO BRING PROCEEDINGS AGAINST ANY GUARANTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY GUARANTOR AGAINST THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT, THE ISSUING BANK OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN THE CITY OF NEW YORK.

(B) EACH GUARANTOR WHICH IS A FOREIGN SUBSIDIARY (A "FOREIGN GUARANTOR") IRREVOCABLY DESIGNATES AND APPOINTS THE COMPANY, AS ITS AUTHORIZED AGENT, TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF, SERVICE

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OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUIT, ACTION OR PROCEEDING OF THE NATURE REFERRED TO IN CLAUSE (A) ABOVE. SAID DESIGNATION AND APPOINTMENT SHALL BE IRREVOCABLE BY EACH SUCH FOREIGN GUARANTOR UNTIL ALL GUARANTEED OBLIGATIONS PAYABLE BY SUCH FOREIGN GUARANTOR HEREUNDER AND UNDER THE OTHER LOAN DOCUMENTS SHALL HAVE BEEN PAID IN FULL IN ACCORDANCE WITH THE PROVISIONS HEREOF AND THEREOF. EACH FOREIGN GUARANTOR HEREBY CONSENTS TO PROCESS BEING SERVED IN ANY SUIT, ACTION OR PROCEEDING OF THE NATURE REFERRED TO IN CLAUSE (A) ABOVE BY SERVICE OF PROCESS UPON THE COMPANY AS PROVIDED IN THIS CLAUSE (B); PROVIDED THAT, TO THE EXTENT LAWFUL AND POSSIBLE, NOTICE OF SAID SERVICE UPON SUCH AGENT SHALL BE MAILED BY REGISTERED OR CERTIFIED AIR MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, TO THE COMPANY OR TO ANY OTHER ADDRESS OF WHICH SUCH FOREIGN GUARANTOR SHALL HAVE GIVEN WRITTEN NOTICE TO THE ADMINISTRATIVE AGENT (WITH A COPY THEREOF TO THE COMPANY). EACH FOREIGN GUARANTOR IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL CLAIM OF ERROR BY REASON OF ANY SUCH SERVICE IN SUCH MANNER AND AGREES THAT SUCH SERVICE SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON SUCH FOREIGN GUARANTOR IN ANY SUCH SUIT, ACTION OR PROCEEDING AND SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, BE TAKEN AND HELD TO BE VALID AND PERSONAL SERVICE UPON AND PERSONAL DELIVERY TO SUCH FOREIGN GUARANTOR. NOTHING HEREIN WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

(C) WAIVER OF JURY TRIAL. EACH GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED

THEREUNDER AND FURTHER WAIVES ANY RIGHT TO INTERPOSE ANY COUNTERCLAIM RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY IN SUCH ACTION.

(D) TO THE EXTENT THAT ANY GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER FROM SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT, EXECUTION OR OTHERWISE), EACH GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.

SECTION 16. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Guaranty. In the event an ambiguity or question of intent or interpretation arises, this Guaranty shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Guaranty.

SECTION 17. Taxes, Expenses of Enforcement, etc.

(A) Taxes.

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(i) All payments by any Guarantor to or for the account of any Lender, the Issuing Bank, the Administrative Agent or any other Holder of Guaranteed Obligations hereunder or under any promissory note or application for a Letter of Credit shall be made free and clear of and without deduction for any and all Taxes. If any Guarantor shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder to any Lender, the Issuing Bank, the Administrative Agent or any other Holder of Guaranteed Obligations, (a) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 17(A)) such Lender, the Issuing Bank, the Administrative Agent or any other Holder of Guaranteed Obligations (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (b) such Guarantor shall make such deductions, (c) such Guarantor shall pay the full amount deducted to the relevant authority in accordance with applicable law and (d) such Guarantor shall furnish to the Administrative Agent the original copy of a receipt evidencing payment thereof within thirty (30) days after such payment is made.

(ii) In addition, the Guarantors hereby agree to pay any present or future stamp or documentary taxes and any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or under any promissory note or application for a Letter of Credit or from the execution or delivery of, or otherwise with respect to, this Guaranty or any promissory note or application for a Letter of Credit ("Other Taxes").

(iii) The Guarantors hereby agree to indemnify the Administrative Agent, the Issuing Bank, each Lender and any other Holder of Guaranteed Obligations for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed on amounts payable under this Section 17(A)) paid by the Administrative Agent, the Issuing Bank, such Lender or such other Holder of Guaranteed Obligations and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto. Payments due under this indemnification shall be made within thirty (30) days of the date the Administrative Agent, the Issuing Bank, such Lender or such other Holder of Guaranteed Obligations makes demand therefor.

(iv) By accepting the benefits hereof, each Foreign Lender agrees that it will comply with Section 2.17(e) of the Credit Agreement.

(B) Expenses of Enforcement, Etc. Subject to the terms of the Credit Agreement, after the occurrence of an Event of Default under the Credit Agreement, the Lenders shall have the right at any time to direct the Administrative Agent to commence enforcement proceedings with respect to the Guaranteed Obligations. The Guarantors agree to reimburse the Administrative Agent and the other Holders of Guaranteed Obligations for any reasonable costs and out-of-pocket expenses (including reasonable attorneys' fees and time charges of attorneys for the Administrative Agent and the other Holders of Guaranteed Obligations, which attorneys may be employees of the Administrative Agent or the other Holders of Guaranteed Obligations) paid or incurred by the Administrative Agent or any other Holder of Guaranteed Obligations in connection with the collection and enforcement of amounts due under the Loan Documents, including without limitation this Guaranty. The Administrative Agent agrees to distribute payments received from any of the Guarantors hereunder to the other Holders of Guaranteed Obligations on a pro rata basis for application in accordance with the terms of the Credit Agreement.

SECTION 18. Setoff. At any time after all or any part of the Guaranteed Obligations have become due and payable (by acceleration or otherwise), each Holder of Guaranteed Obligations

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(including the Administrative Agent) may, without notice to any Guarantor and regardless of the acceptance of any security or collateral for the payment hereof, appropriate and apply in accordance with the terms of the Credit Agreement toward the payment of all or any part of the Guaranteed Obligations (i) any indebtedness due or to become due from such Holder of Guaranteed Obligations or the Administrative Agent to any Guarantor, and (ii) any moneys, credits or other property belonging to any Guarantor, at any time held by or coming into the possession of such Holder of Guaranteed Obligations (including the Administrative Agent) or any of their respective affiliates.

SECTION 19. Financial Information. Each Guarantor hereby assumes responsibility for keeping itself informed of the financial condition of each of the Borrowers and any and all endorsers and/or other Guarantors of all or any part of the Guaranteed Obligations, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations, or any part thereof, that diligent inquiry would reveal, and each Guarantor hereby agrees that none of the Holders of Guaranteed Obligations (including the Administrative Agent) shall have any duty to advise such Guarantor of information known to any of them regarding such condition or any such circumstances. In the event any Holder of Guaranteed Obligations (including the Administrative Agent), in its sole discretion, undertakes at any time or from time to time to provide any such information to a Guarantor, such Holder of Guaranteed Obligations (including the Administrative Agent) shall be under no obligation (i) to undertake any investigation not a part of its regular business routine, (ii) to disclose any information which such Holder of Guaranteed Obligations (including the Administrative Agent), pursuant to accepted or reasonable commercial finance or banking practices, wishes to maintain confidential or (iii) to make any other or future disclosures of such information or any other information to such Guarantor.

SECTION 20. Severability. Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such



prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

SECTION 21. Merger. This Guaranty represents the final agreement of each of the Guarantors with respect to the matters contained herein and may not be contradicted by evidence of prior or contemporaneous agreements, or subsequent oral agreements, between the Guarantor and any Holder of Guaranteed Obligations (including the Administrative Agent).

SECTION 22. Headings. Section headings in this Guaranty are for convenience of reference only and shall not govern the interpretation of any provision of this Guaranty.

SECTION 23. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from any Guarantor hereunder in the currency expressed to be payable herein (the "specified currency") into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent's main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of each Guarantor in respect of any sum due hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by any Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, of any sum adjudged to be so due in such other currency such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Holder of Guaranteed Obligations

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(including the Administrative Agent), as the case may be, in the specified currency, each Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, in the specified currency and (b) amounts shared with other Holders of Guaranteed Obligations as a result of allocations of such excess as a disproportionate payment to such other Holder of Guaranteed Obligations under Section 2.18 of the Credit Agreement, such Holder of Guaranteed Obligations (including the Administrative Agent), as the case may be, agrees, by accepting the benefits hereof, to remit such excess to such Guarantor.

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IN WITNESS WHEREOF, each of the Initial Guarantors has caused this Guaranty to be duly executed by its authorized officer as of the day and year first above written.

[GUARANTORS]

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

Name:

Title:

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Acknowledged and Agreed  
as of the date first written above:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

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

Name:

Title:

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ANNEX I TO GUARANTY

Reference is hereby made to the Guaranty (the "Guaranty") made as of June 6, 2007, by and among [GUARANTORS TO COME] (the "Initial Guarantors") and along with any additional Subsidiaries of the Company, which become parties thereto and together with the undersigned, the "Guarantors") in favor of the Administrative Agent, for the ratable benefit of the Holders of Guaranteed Obligations, under the Credit Agreement. Capitalized terms used herein and not defined herein shall have the meanings given to them in the Guaranty. By its execution below, the undersigned [NAME OF NEW GUARANTOR], a [corporation] [partnership] [limited liability company], agrees to become, and does hereby become, a Guarantor under the Guaranty and agrees to be bound by such Guaranty as if originally a party thereto. By its execution below, the undersigned represents and warrants as to itself that all of the representations and warranties contained in Section 2 of the Guaranty are true and correct in all respects as of the date hereof.

IN WITNESS WHEREOF, [NAME OF NEW GUARANTOR], a [corporation] [partnership] [limited liability company] has executed and delivered this Annex I counterpart to the Guaranty as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

Its:

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EXHIBIT H

[FORM OF]

**PLEDGE AGREEMENT**

THIS PLEDGE AGREEMENT, dated as of [\_\_\_\_], 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement"), is entered into by and between Photronics, Inc., a Connecticut corporation (the "Company") and the other Subsidiaries of the Company listed on the signature pages hereof (together with the Company, the "Initial Pledgors"), and certain other Subsidiaries of the Company from time to time signatories hereto pursuant to a supplement in the form of Exhibit A (the Initial Pledgors and each such other Subsidiary is individually referred to herein as a "Pledgor" and collectively as the "Pledgors"), and JPMorgan Chase Bank, National Association, as contractual representative (the "Collateral Agent") for itself and for the Holders of Secured Obligations (as defined in the Credit Agreement identified below). Capitalized terms used herein and not otherwise defined herein (including, without limitation, Section 1 hereof) shall have the respective meanings ascribed to such terms in the Credit Agreement.

RECITALS:

WHEREAS, the Company, certain Subsidiaries of the Company from time to time parties thereto as borrowers (together with the Company, the "Borrowers"), the financial institutions from time to time party thereto as lenders (collectively, the "Lenders"), and Administrative Agent have entered into that certain Credit Agreement of even date herewith (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") and the agreements, documents and instruments executed and/or delivered pursuant thereto or in connection therewith, including, without limitation, any guaranty delivered in connection therewith, the "Loan Documents"), which Credit Agreement provides, subject to the terms and conditions thereof, for extensions of credit and other financial accommodations to be made by the Lenders to or for the benefit of the Borrowers;

WHEREAS, the Pledgors wish to secure their obligations to the Holders of Secured Obligations pursuant to the terms of this Pledge Agreement;

WHEREAS, each of the Pledgors is willing to pledge its capital stock, membership interests or partnership interests in certain of its Subsidiaries to the Collateral Agent, for the benefit of the Holders of Secured Obligations, as security for the Secured Obligations pursuant to the terms of this Pledge Agreement;

WHEREAS, Schedule I hereto sets forth certain of the Pledgors' Subsidiaries (the "Initial Pledged Subsidiaries");

WHEREAS, additional Subsidiaries of the Company may become Pledgors under this Pledge Agreement by executing and delivering to the Collateral Agent a supplement to this Pledge Agreement substantially in the form of Exhibit A hereto (each such supplement, a "Pledge Supplement") setting forth additional Subsidiaries of such Pledgor (the "Supplemental Pledged Subsidiaries");

WHEREAS, each Pledgor may from time to time execute and deliver to the Collateral Agent an amendment to this Pledge Agreement substantially in the form of Exhibit B hereto (each such amendment, a "Pledge Amendment") setting forth additional Subsidiaries of such Pledgor (the

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"Additional Pledged Subsidiaries") (the Initial Pledged Subsidiaries, the Additional Pledged Subsidiaries and the Supplemental Pledged Subsidiaries collectively referred to herein as the "Pledged Subsidiaries");

NOW, THEREFORE, for and in consideration of the foregoing and of any financial accommodations or extensions of credit (including, without limitation, any loan or advance by renewal, refinancing or extension of the agreements described hereinabove or otherwise) heretofore, now or hereafter made to or for the benefit of any Pledgor pursuant to any Loan Document, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgors and the Collateral Agent hereby agree as follows:

SECTION 1. Definitions. Unless otherwise defined herein, terms defined in the Credit Agreement are used herein as therein defined (and, with respect to such terms, the singular shall include the plural and vice versa and any gender shall include any other gender as the context may require), and the following terms shall have the following meaning:

"Guarantors" means the Company or any Subsidiary of the Company party to a Subsidiary Guaranty.

"UCC" shall mean the Uniform Commercial Code as the same may, from time to time, be in effect in the State of New York, as amended or supplemented from time to time; provided, however, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the Collateral Agent's and the Holders of Secured Obligations' security interest in any Pledged Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions. Any and all terms used in this Pledge Agreement which are defined in the UCC shall be construed and defined in accordance with the meaning and definition ascribed to such terms under the UCC, unless otherwise defined herein.

SECTION 2. Pledge. Each Pledgor hereby pledges to the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, and grants to the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, a security interest in, the collateral described in subsections (a) through (e) below (collectively, the "Pledged Collateral");

(a) (i) All of the capital stock of the Pledged Subsidiaries listed on Schedule I which are corporations, now or at any time or times hereafter owned directly by the Pledgor (such shares being identified on Schedule I attached hereto or on any Schedule I attached to any applicable Pledge Supplement or Pledge Amendment), and the certificates representing the shares of such capital stock, all options and warrants for the purchase of shares of the stock of such Pledged Subsidiaries now or hereafter held in the name of the Pledgor (all of said capital stock, options and warrants and all capital stock held in the name of the Pledgor as a result of the exercise of such options or warrants being hereinafter collectively referred to as the “Pledged Stock”), herewith, or from time to time, delivered to the Collateral Agent accompanied by stock powers in the form of Exhibit C attached hereto and made a part hereof (the “Powers”) duly executed in blank, and all dividends, cash, instruments, investment property and other property from time to time received, receivable or otherwise distributed in respect of, or in exchange for, any or all of the Pledged Stock;

(ii) All additional shares of capital stock of the Pledged Subsidiaries described in Section 2(a)(i) above from time to time acquired by the Pledgor in any manner, and the certificates, which shall be delivered to the Collateral Agent accompanied by Powers duly

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executed in blank, representing such additional shares (any such additional shares shall constitute part of the Pledged Stock, and the Collateral Agent is irrevocably authorized to unilaterally amend Schedule I hereto or any Schedule I to any applicable Pledge Supplement or Pledge Amendment to reflect such additional shares), and all options, warrants, dividends, cash, instruments, investment property and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares;

(b) (i) All of the membership interests of Pledgor in the Pledged Subsidiaries listed on Schedule I which are limited liability companies now or at any time or times hereafter owned directly by the Pledgor, and any certificates representing such membership interests in the Pledged Subsidiaries (such membership interests being identified on Schedule I attached hereto or on any Schedule I attached to any applicable Pledge Supplement or Pledge Amendment), all of the right, title and interest of the Pledgor in, to and under its respective percentage interest, shares or units as a member and all investment property in respect of such membership interests, including, without limitation, Pledgor’s interest in (or allocation of) the profits, losses, income, gains, deductions, credits or similar items of such Pledged Subsidiaries and the right to receive distributions of such Pledged Subsidiary’s cash, other property, assets, and all options and warrants for the purchase of membership interests, whether now existing or hereafter arising, whether arising under the terms of the certificates of formation, the limited liability company agreements or any of the other organizational documents (such documents hereinafter collectively referred to as the “Operating Agreements”) of such Pledged Subsidiaries, or at law or in equity, or otherwise and any and all of the proceeds thereof (all of said membership interests, certificates, and warrants being hereinafter collectively referred to as the “Pledged Membership Interests”) herewith delivered, if applicable, to the Collateral Agent indorsed in blank or accompanied by appropriate instruments of transfer duly executed in blank, and all distributions, cash, instruments, investment property and other property from time to time received, receivable or otherwise distributed in respect of, or in exchange for, any or all of the Pledged Membership Interests;

(ii) Any additional membership interests in the Pledged Subsidiaries described in Section 2(b)(i) above from time to time acquired by the Pledgor in any manner, and any certificates, which, if applicable, shall be delivered to the Collateral Agent indorsed in blank or accompanied by appropriate instruments of transfer duly executed in blank, representing such additional membership interests or any additional percentage interests, shares, units, options or warrants of membership interests in Pledged Subsidiaries (any such additional interests shall constitute part of the Pledged Membership Interests, and the Collateral Agent is irrevocably authorized to unilaterally amend Schedule I hereto or any Schedule I to any applicable Pledge Supplement or Pledge Amendment from time to time to reflect such additional interests), and all options, warrants, distributions, investment property, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests, and the Pledgor shall promptly thereafter deliver to the Collateral Agent a certificate duly executed by the Pledgor describing such percentage interests, certificates, units, options or warrants and certifying that the same have been duly pledged hereunder;

(c) (i) All of the partnership interests of the Pledgor in and to the Pledged Subsidiaries listed on Schedule I which are partnerships now or at any time or times hereafter owned directly by the Pledgor (such partnership interests being identified on Schedule I attached hereto or on Schedule I to any applicable Pledge Supplement or Pledge Amendment), the property (and interests in property) that is owned by such Pledged Subsidiaries, all of the Pledgor’s rights, if any, to participate in the management of such Pledged Subsidiaries, all rights,

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privileges, authority and powers of the Pledgor as owner or holder of its partnership interests in such Pledged Subsidiaries, including, but not limited to, all contract rights related thereto, all rights, privileges, authority and powers relating to the economic interests of the Pledgor as owner or holder of its partnership interests in such Pledged Subsidiaries, including, without limitation, all contract rights related thereto, all options and warrants of the Pledgor for the purchase of any partnership interests in such Pledged Subsidiaries, all documents and certificates representing or evidencing the Pledgor’s partnership interests in such Pledged Subsidiaries, all of the Pledgor’s interest in and to the profits and losses of such Pledged Subsidiaries and the Pledgor’s right as a partner of such Pledged Subsidiaries to receive distributions of such Pledged Subsidiaries’ assets, upon complete or partial liquidation or otherwise, all of the Pledgor’s right, title and interest to receive payments of principal and interest on any loans and/or other extensions of credit made by the Pledgor or its Affiliates to such Pledged Subsidiaries, all distributions, cash, instruments, investment property and other property from time to time received, receivable or otherwise distributed in respect of, or in exchange for, the Pledgor’s partnership interests in such Pledged Subsidiaries, and any other right, title, interest, privilege, authority and power of the Pledgor in or relating to such Pledged Subsidiaries, all whether now existing or hereafter arising, and whether arising under any partnership agreements of such Pledged Subsidiaries (as the same may be amended, modified or restated from time to time, the “Partnership Agreements”) or otherwise, or at law or in equity and all books and records of the Pledgor pertaining to any of the foregoing (all of the foregoing being referred to collectively as the “Pledged Partnership Interests”);

(ii) Any additional partnership interests in the Pledged Subsidiaries described in Section 2(c)(i) above from time to time acquired by the Pledgor in any manner (any such additional interests shall constitute part of the Pledged Partnership Interests, and the Collateral Agent is irrevocably authorized to unilaterally amend Schedule I hereto or any Schedule I to any applicable Pledge Supplement or Pledge Amendment from time to time to reflect such additional interests), and all options, warrants, distributions, investment property, cash, instruments and other rights and options from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests, and the Pledgor shall promptly thereafter deliver to the Collateral Agent a certificate duly executed by the Pledgor describing such percentage interests, options or warrants and certifying that the same have been duly pledged hereunder;

(d) The property and interests in property described in Section 4 below; and

(e) All proceeds of the collateral described in subsections (a) through (d) above.

Notwithstanding the foregoing, the Pledged Collateral with respect to any Pledged Subsidiary which is an Affected Foreign Subsidiary shall not exceed 65% of the equity interests of such Pledged Subsidiary.

SECTION 3. Security for Secured Obligations; Delivery of Pledged Collateral. The Pledged Collateral secures the prompt payment, performance and observance of the Secured Obligations. To the extent that any Pledged Collateral is now or hereafter becomes evidenced by certificates or instruments, all such certificates and instruments shall promptly be physically delivered to and held by or on behalf of the Collateral Agent, pursuant hereto, together with appropriate signed Powers and other endorsements in form and substance acceptable to the Collateral Agent.

SECTION 4. Pledged Collateral Adjustments. If, during the term of this Pledge Agreement:

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(a) Any stock dividend, reclassification, readjustment or other change is declared or made in the capital structure of any of the Pledged Subsidiaries, or any option included within the Pledged Collateral is exercised, or both, or

(b) Any subscription warrants or any other rights or options shall be issued in connection with the Pledged Collateral,

then all new, substituted and additional membership or partnership interests, certificates, shares, warrants, rights, options, investment property or other securities, issued by reason of any of the foregoing, shall, if applicable, be immediately delivered to and held by the Collateral Agent under the terms of this Pledge Agreement and shall constitute Pledged Collateral hereunder; provided, however, that nothing contained in this Section 4 shall be deemed to permit any distribution or stock dividend, issuance of additional membership or partnership interests or stock, warrants, rights or options, reclassification, readjustment or other change in the capital structure of any Pledged Subsidiary which is not expressly permitted by the Loan Documents.

SECTION 5. Subsequent Changes Affecting Pledged Collateral. Each Pledgor represents and warrants that it has made its own arrangements for keeping itself informed of changes or potential changes affecting the Pledged Collateral (including, but not limited to, rights to convert, rights to subscribe, payment of dividends, cash distributions or other distributions, reorganizations or other exchanges, tender offers and voting rights), and each Pledgor agrees that neither the Collateral Agent nor any of the Holders of Secured Obligations shall have any obligation to inform the Pledgors of any such changes or potential changes or to take any action or omit to take any action with respect thereto. The Collateral Agent may, after the occurrence and during the continuance of an Event of Default, without notice and at its option, transfer or register the Pledged Collateral or any part thereof into its or its nominee's name with or without any indication that such Pledged Collateral is subject to the security interest hereunder. In addition, the Collateral Agent may, after the occurrence and during the continuance of an Event of Default, exchange certificates or instruments representing or evidencing Pledged Stock, Pledged Membership Interests or Pledged Partnership Interests for certificates or instruments of smaller or larger denominations.

SECTION 6. Representations and Warranties. Each Pledgor represents and warrants as follows:

(a) Each Pledgor is the sole legal and beneficial owner of the percentage of the issued and outstanding common stock, membership interests or partnership interests, as applicable, of the Pledged Subsidiaries, set forth opposite the name of such Pledged Subsidiary on Schedule I hereto, free and clear of any Lien except for the security interest created by this Pledge Agreement;

(b) As of the date hereof, all of the Pledged Collateral is currently represented by certificates, and Schedule I sets forth a complete and accurate list of all the Pledged Collateral, all of which has been delivered to the Collateral Agent;

(c) Each Pledgor (i) is either a corporation, limited partnership or other type of legal entity as described on Schedule II hereto, (ii) is duly organized and validly existing solely under the laws of its jurisdiction of organization, as set forth on Schedule II hereto, (iii) is in good standing (if applicable) under the laws of its jurisdiction of organization, (iv) has its place of business or chief executive office (if it has more than one place of business) at the address set forth on Schedule II hereto, (v) has full corporate, partnership or limited liability company power and authority to enter into this Pledge Agreement and to perform each and all of its obligations

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herein and (vi) has ensured that the grant of a first priority security interest in the Pledged Collateral under this Pledge Agreement shall be enforceable and recognized in the jurisdiction of organization of each applicable Pledged Subsidiary;

(d) The exact legal name of each Pledgor as it appears in the Pledgors' organizational documents, as amended, as filed with the Pledgors' jurisdiction of organization is set forth on Schedule II hereto, and none of the Pledgors has conducted business during the last five years under any name other than its exact legal name as set forth on Schedule II, except for any prior names as described on Schedule II hereto;

(e) No financing statement naming any Pledgor as debtor and describing or purporting to cover all or any portion of the Pledged Collateral, which has not lapsed or been terminated, has been filed in any jurisdiction except for financing statements naming the Collateral Agent on behalf of the Holders of Secured Obligations as secured party;

(f) There are no restrictions upon the voting rights associated with, or upon the transfer of, any of the Pledged Collateral;

(g) Each Pledgor has the right to vote, pledge and grant a security interest in or otherwise transfer such Pledged Collateral free of any Liens, except for the pledge and security interest granted to the Collateral Agent hereunder;

(h) Each Pledgor owns the Pledged Collateral free and clear of any pledge, mortgage, hypothecation, lien, charge, encumbrance or any security interest therein, except for the pledge and security interest granted to the Collateral Agent hereunder;

(i) The pledge of the Pledged Collateral does not violate (1) the articles or certificates of incorporation, by-laws, operating agreements or partnership agreements, as applicable, of the Pledged Subsidiaries, or any indenture, mortgage, loan or credit agreement to which any Pledgor or any of the Pledged Subsidiaries is a party or by which any of their respective properties or assets may be bound; or (2) any restriction on such transfer or encumbrance of such Pledged Collateral;

(j) Each Pledgor agrees to execute and deliver to each Pledged Subsidiary that is a limited liability company or limited partnership a control acknowledgment (“Control Acknowledgment”) substantially in the form of Exhibit D hereto. Each Pledgor shall cause such Pledged Subsidiary to acknowledge in writing its receipt and acceptance thereof. Such Control Acknowledgment shall instruct such Pledged Subsidiary to follow instructions from the Collateral Agent without the Pledgors’ further consent;

(k) Each Pledgor authorizes the Collateral Agent to file financing statements pursuant to the UCC as the Collateral Agent may reasonably deem necessary to perfect the security interest granted hereby;

(l) No authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the pledge of the Pledged Collateral pursuant to this Pledge Agreement or for the execution, delivery or performance of this Pledge Agreement by the Pledgors (except for the filing of financing statements contemplated pursuant to Section 6(k) hereof) or (ii) for the exercise by the Collateral Agent of the voting or other rights provided for in this Pledge Agreement or the remedies in respect of the Pledged

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Collateral pursuant to this Pledge Agreement (except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally);

(m) Upon delivery of each of the certificates representing the Pledged Collateral, or, as applicable, the filing of financing statements pursuant to Section 6(k) hereof, or upon execution of a control agreement, the pledge of the Pledged Collateral pursuant to this Pledge Agreement will create a valid and perfected first priority security interest in the Pledged Collateral, in favor of the Collateral Agent for the benefit of the Collateral Agent and the Holders of Secured Obligations, securing the payment and performance of the Secured Obligations;

(n) No Pledgor has (i) registered the Pledged Collateral in the name of any other Person, (ii) consented to any agreement by any of the Pledged Subsidiaries in which any such Pledged Subsidiary agrees to act on the instructions of any other Person, (iii) delivered the Pledged Collateral to any other Person, or (iv) otherwise granted “control” (as such term is used in Section 8-106 of the UCC) of the Pledged Collateral to any other Person;

(o) The Powers are duly executed and give the Collateral Agent the authority they purport to confer; and

(p) No Pledgor has any obligation to make further capital contributions or make any other payments to the Pledged Subsidiaries with respect to its interest therein.

#### SECTION 7. Covenants.

(a) Except to the extent expressly permitted by the terms of the Loan Documents, each Pledgor agrees that it will (i) not change its name or its current legal structure, and will not, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets, (ii) maintain its due organization and good standing in its jurisdiction of organization, (iii) not change its jurisdiction of organization, and (iv) not change its mailing address, place of business or chief executive office (if it has more than one place of business), unless such Pledgor shall have given the Collateral Agent not less than 30 day’s prior written notice of such event or occurrence and the Collateral Agent shall have either (x) determined that such event or occurrence will not adversely affect the validity, perfection or priority of the Collateral Agent’s security interest in the Pledged Collateral, or (y) taken such steps (with the cooperation of the Pledgors to the extent necessary or advisable) as are necessary or advisable to properly maintain the validity, perfection and priority of the Collateral Agent’s security interest in such Pledged Collateral;

(b) No Pledgor will (i) register the Pledged Collateral in the name of any Person other than the Collateral Agent, (ii) consent to any agreement between any Pledged Subsidiary and any Person other than the Collateral Agent in which Pledged Subsidiary agrees to act on the instructions of any such Person, (iii) deliver the Pledged Collateral or any related Power or endorsement to any Person other than the Collateral Agent or (iv) otherwise grant “control” (as such term is used in Section 8-106 of the UCC) of the Pledged Collateral to any Person other than the Collateral Agent, provided, however, that each Pledgor shall, at the reasonable request and direction of the Collateral Agent at any time, promptly take any or all of such actions as set forth in clause (i) – (iv) above for the benefit of, and in a manner reasonably acceptable to, the Collateral Agent;

(c) Without limiting the provisions of clause (b), each Pledgor will, at its expense, promptly execute, authorize, acknowledge and deliver all such instruments, certificates or other

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documents, and take all such additional actions as the Collateral Agent from time to time may reasonably request in order to ensure to the Collateral Agent the benefits of the first priority security interest in and to the Pledged Collateral intended to be created by this Pledge Agreement, including, without limitation, (i) the authorization and filing of any necessary UCC financing statements, (ii) the delivery to the Collateral Agent of any certificates that may from time to time evidence the Pledged Collateral, (iii) the execution in blank and delivery of any necessary Powers or other endorsements, and (iv) taking such action as required in the jurisdiction of organization of the applicable Pledged Subsidiary in order to ensure the enforceability and recognition of such first priority security interest in such jurisdiction of organization, and will cooperate with the Collateral Agent, at such Pledgor’s expense, in obtaining all necessary approvals and consents, and making all necessary filings under federal, state, local or foreign law in connection with such security interests or any sale or transfer of the Pledged Collateral;

(d) Each Pledgor has and will defend the title to the Pledged Collateral and the security interests of the Collateral Agent in the Pledged Collateral against the claim of any Person and will maintain and preserve such security interests;

(e) Each Pledgor will, upon obtaining ownership of any additional Pledged Collateral promptly and in any event within five (5) Business Days deliver to the Collateral Agent a Pledge Amendment, duly executed by such Pledgor, in substantially the form of Exhibit B hereto (a “Pledge Amendment”) in respect of any such additional Pledged Collateral, pursuant to which the Pledgor shall confirm its grant of a security interest in such additional Pledged Collateral pursuant to Section 1 hereof to the Collateral Agent, such grant being deemed effective as of the date hereof, regardless of whether such Pledge Amendment is ever executed pursuant to this paragraph. Each Pledgor hereby authorizes the Collateral Agent to attach each Pledge Amendment to this Pledge Agreement and to unilaterally amend Schedule I hereto pursuant to the terms of Section 2 hereof, and agrees that all Pledged Collateral listed on any Pledge Amendment delivered to the Collateral Agent, or amended Schedule I, shall for all purposes hereunder be considered Pledged Collateral (it being understood and agreed that the failure by any Pledgor or the Collateral Agent to prepare or execute any such Pledge Amendment shall not prevent the creation or attachment of the Collateral Agent’s lien and security interest in any such shares which creation and attachment shall automatically, and be deemed to, occur pursuant to Section 1 hereof);

(f) Each Pledgor hereby irrevocably authorizes the Collateral Agent at any time and from time to time to file in any filing office in any UCC jurisdiction any financing statements or amendments thereto that (a) describe the Pledged Collateral and (b) contain any other information required by Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment. Each Pledgor also ratifies its authorization for the Collateral Agent to have filed any financing statements or amendments thereto if filed prior to the date hereof;

(g) Each Pledgor will (i) deliver to the Collateral Agent immediately upon execution of this Pledge Agreement, a Pledge Supplement or a Pledge Amendment, as applicable, the originals of all certificates or other instruments constituting Pledged Collateral and (ii) hold in trust for the Collateral Agent upon receipt and immediately thereafter deliver to the Collateral Agent any certificates or other instruments constituting Pledged Collateral;

(h) Each Pledgor will permit the Collateral Agent from time to time to cause the appropriate issuers (and, if held with a securities intermediary, such securities intermediary) of uncertificated securities or other types of investment property not represented by certificates which are Pledged Collateral to mark their books and records with the numbers and face amounts

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of all such uncertificated securities or other types of investment property not represented by certificates and all rollovers and replacements therefor to reflect the pledge of such Pledged Collateral granted pursuant to this Pledge Agreement. Each Pledgor will take any actions necessary to cause (i) the issuers of uncertificated securities which are Pledged Collateral and (ii) any financial intermediary which is the holder of any investment property, to cause the Collateral Agent to have and retain control over such securities or other investment property. Without limiting the foregoing, each Pledgor will, with respect to investment property held with a financial intermediary, cause such financial intermediary to enter into a control agreement with the Collateral Agent in form and substance satisfactory to the Collateral Agent;

(i) Except as otherwise permitted by the terms of the Loan Documents, each Pledgor will not (i) permit or suffer any issuer of privately held corporate securities or other ownership interests in a corporation, partnership, joint venture or limited liability company constituting Pledged Collateral over which it has voting control to dissolve, liquidate, retire any of its capital stock or other instruments or securities evidencing ownership, reduce its capital or merge or consolidate with any other entity, or (ii) vote any of the instruments, securities or other investment property in favor of any of the foregoing;

(j) Each Pledgor will permit any registerable Pledged Collateral to be registered in the name of the Collateral Agent or its nominee at any time after the occurrence and continuance of an Event of Default; and

(k) Each Pledgor agrees that it will not (i) except as otherwise permitted by the Loan Documents, sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral without the prior written consent of the Collateral Agent, or (ii) create or permit to exist any Lien upon or with respect to any of the Pledged Collateral, except for the security interest under this Pledge Agreement.

**SECTION 8. Voting Rights.** During the term of this Pledge Agreement, and except as provided in this Section 8 below, each Pledgor shall have (i) the right to exercise or refrain from exercising any and all voting, consent, managerial, election and other rights, including the right to grant any waiver, pertaining to the Pledged Stock, Pledged Membership Interests or Pledged Partnership Interests on all governing questions in a manner not inconsistent with the terms of this Pledge Agreement or any Loan Documents and (ii) the right to be a member or a partner of all the Pledged Subsidiaries which are limited liability companies or partnerships, respectively. After the occurrence and during the continuance of an Event of Default, the Collateral Agent or the Collateral Agent’s nominee may, at the Collateral Agent’s or such nominee’s option and following written notice from the Collateral Agent to the Pledgors, (i) exercise all voting powers pertaining to the Pledged Collateral, including the right to take action by shareholder consent and (ii) become a member or partner of each and all of the Pledged Subsidiaries which are limited liability companies or partnerships, respectively, and as such (x) exercise, or direct the applicable Pledgor as to the exercise of all voting, consent, managerial, election and other membership rights to the applicable Pledged Collateral and (y) exercise, or direct any Pledgor as to the exercise of any and all rights of conversion, exchange, subscription or any other rights, privileges or options pertaining to the applicable Pledged Collateral, as if the Collateral Agent were the absolute owner thereof, all without liability except to account for property actually received by it, but the Collateral Agent shall have no duty to exercise any of the aforesaid rights, privileges or options and shall not be responsible for any failure so to do or delay in so doing. Such authorization shall constitute an irrevocable voting proxy from such Pledgor to the Collateral Agent or, at the Collateral Agent’s option, to the Collateral Agent’s nominee. After an Event of Default is cured or waived, such Pledgor will have the right to exercise the voting and rights, powers, privileges and options that it would otherwise be entitled

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to exercise pursuant to the terms of the Pledge Agreement prior to the occurrence of any such Event of Default.

**SECTION 9. Dividends and Other Distributions.** (a) So long as no Event of Default has occurred and is continuing:

(i) Each Pledgor shall be entitled to receive and retain any and all dividends, cash distributions and interest paid in respect of the Pledged Collateral to the extent such distributions are not prohibited by the Loan Documents, provided, however, that any and all (A) distributions, dividends and interest paid or payable other than in cash with respect to, and instruments and other property received, receivable or otherwise distributed with respect to, or in exchange for, any of the Pledged Collateral, (B) dividends and other distributions paid or payable in cash with respect to any of the Pledged Collateral on account of a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in surplus, and (C) cash paid, payable or otherwise distributed with respect to principal of, or in redemption of, or in exchange for, any of the Pledged Collateral, shall be Pledged Collateral, and shall be

forthwith delivered to the Collateral Agent to hold, for the benefit of the Collateral Agent and the Holders of Secured Obligations, as Pledged Collateral and shall, if received by a Pledgor, be received in trust for the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, be segregated from the other property or funds of such Pledgor, and be delivered immediately to the Collateral Agent as Pledged Collateral in the same form as so received (with any necessary endorsement); and

(ii) The Collateral Agent shall execute and deliver (or cause to be executed and delivered) to each Pledgor all such proxies and other instruments as such Pledgor may reasonably request for the purpose of enabling such Pledgor to receive the dividends or interest payments which it is authorized to receive and retain pursuant to clause (i) above.

(b) After the occurrence and during the continuance of an Event of Default:

(i) All rights of the Pledgors to receive the dividends, distributions and interest payments which it would otherwise be authorized to receive and retain pursuant to Section 9(a)(i) hereof shall cease, and all such rights shall thereupon become vested in the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, which shall thereupon have the sole right to receive and hold as Pledged Collateral such dividends, distributions and interest payments; and

(ii) All dividends, distributions and interest payments which are received by any Pledgor contrary to the provisions of clause (i) of this Section 9(b) shall be received in trust for the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, shall be segregated from other funds of such Pledgor and shall be paid over immediately to the Collateral Agent as Pledged Collateral in the same form as so received (with any necessary endorsements).

The Pledgors will reimburse the Collateral Agent and/or the Holders of Secured Obligations for all expenses incurred by the Collateral Agent and/or the Holders of Secured Obligations, including, without limitation, reasonable attorneys' and accountants' fees and expenses in connection with the foregoing.

SECTION 10. Remedies. (a) The Collateral Agent shall have, in addition to any other rights given under this Pledge Agreement or by law, all of the rights and remedies with respect to the Pledged Collateral of a secured party under the UCC. After the occurrence and during the continuance of

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an Event of Default, the Collateral Agent (personally or through an agent) is hereby authorized and empowered to transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exercise all voting rights with respect thereto, to collect and receive all cash dividends or distributions and other distributions made thereon, and to otherwise act with respect to the Pledged Collateral as though the Collateral Agent were the outright owner thereof (in the case of a limited liability company, the sole member and manager thereof and, in the case of a partnership, a partner thereof), each Pledgor hereby irrevocably constituting and appointing the Collateral Agent as the proxy and attorney-in-fact of such Pledgor, with full power of substitution to do so; provided, however, that the Collateral Agent shall have no duty to exercise any such right or to preserve the same and shall not be liable for any failure to do so or for any delay in doing so; provided, further, however, that the Collateral Agent agrees to exercise such proxy and powers only so long as an Event of Default shall have occurred and is continuing and following written notice thereof. In addition, after the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have such powers of sale and other powers as may be conferred by applicable law and regulatory requirements. With respect to the Pledged Collateral or any part thereof which shall then be in or shall thereafter come into the possession or custody of the Collateral Agent or which the Collateral Agent shall otherwise have the ability to transfer under applicable law, the Collateral Agent may, in its sole discretion, without notice except as specified below, after the occurrence and during the continuance of an Event of Default, sell or cause the same to be sold at any exchange, broker's board or at public or private sale, in one or more sales or lots, at such price as the Collateral Agent may deem best, for cash or on credit or for future delivery, without assumption of any credit risk, and the purchaser of any or all of the Pledged Collateral so sold shall thereafter own the same, absolutely free from any claim, encumbrance or right of any kind whatsoever. The Collateral Agent and each of the Holders of Secured Obligations may, in its own name, or in the name of a designee or nominee, buy the Pledged Collateral at any public sale and, if permitted by applicable law, buy the Pledged Collateral at any private sale. The Pledgors jointly and severally agree to pay to the Collateral Agent all reasonable expenses (including, without limitation, court costs and reasonable attorneys' and paralegals' fees and expenses) of, or incidental to, the enforcement of any of the provisions hereof. The Collateral Agent agrees to distribute any proceeds of the sale of the Pledged Collateral in accordance with Section 10(d) and the Pledgor shall remain liable for any deficiency following the sale of the Pledged Collateral.

(b) Unless any of the Pledged Collateral threatens to decline speedily in value or is or becomes of a type sold on a recognized market, the Collateral Agent will give the applicable Pledgor reasonable notice of the time and place of any public sale thereof, or of the time after which any private sale or other intended disposition is to be made. Any sale of the Pledged Collateral conducted in conformity with reasonable commercial practices of Lenders, commercial finance companies, insurance companies or other financial institutions disposing of property similar to the Pledged Collateral shall be deemed to be commercially reasonable. Notwithstanding any provision to the contrary contained herein, each Pledgor agrees that any requirements of reasonable notice shall be met if such notice is received by such Pledgor as provided in Section 21 below at least ten (10) days before the time of the sale or disposition; provided, however, that the Collateral Agent may give any shorter notice that is commercially reasonable under the circumstances. Any other requirement of notice, demand or advertisement for sale is waived, to the extent permitted by law.

(c) In view of the fact that federal and state securities laws may impose certain restrictions on the method by which a sale of the Pledged Collateral may be effected after an Event of Default, each Pledgor agrees that after the occurrence and during the continuation of an Event of Default, the Collateral Agent may, from time to time, attempt to sell all or any part of the Pledged Collateral by means of a private placement restricting the bidders and prospective purchasers to those who are qualified and will represent and agree that they are purchasing for investment only and not for distribution. In so doing, the Collateral Agent may solicit offers to buy the Pledged Collateral, or any part of it, from a limited number

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of investors deemed by the Collateral Agent, in its reasonable judgment, to be financially responsible parties who might be interested in purchasing the Pledged Collateral. If the Collateral Agent solicits such offers from not less than four (4) such investors, then the acceptance by the Collateral Agent of the highest offer obtained therefrom shall be deemed to be a commercially reasonable method of disposing of such Pledged Collateral; provided, however, that this Section does not impose a requirement that the Collateral Agent solicit offers from four or more investors in order for the sale to be commercially reasonable.

(d) All proceeds of the sale of the Pledged Collateral received by the Collateral Agent hereunder shall be applied by the Collateral Agent to payment of the Secured Obligations pursuant to the terms of the Intercreditor Agreement.

SECTION 11. Collateral Agent Appointed Attorney-in-Fact. Each Pledgor hereby appoints the Collateral Agent its attorney-in-fact, coupled with an interest, with full authority, in the name of such Pledgor or otherwise, from time to time in the Collateral Agent's sole discretion, to take any action and to execute any instrument which the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Pledge Agreement, including, without limitation, to receive, endorse and collect all instruments made payable to such Pledgor representing any dividend, distribution, interest payment or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same and to arrange for the transfer of all or any part of the Pledged Collateral on the books of the Pledged Subsidiaries to the name of the Collateral Agent or the Collateral Agent's nominee.

SECTION 12. Waivers. (i) Each Pledgor waives presentment and demand for payment of any of the Secured Obligations, protest and notice of dishonor or default with respect to any of the Secured Obligations and all other notices to which such Pledgor might otherwise be entitled except as otherwise expressly provided herein or in the applicable Loan Document.

(ii) Each Pledgor understands and agrees that its obligations and liabilities under this Pledge Agreement shall remain in full force and effect, notwithstanding foreclosure of any property securing all or any part of the Secured Obligations by trustee sale or any other reason impairing the right of any Pledgor, the Collateral Agent or any of the Holders of Secured Obligations to proceed against any Pledged Subsidiary, any other guarantor or any Pledged Subsidiary or such guarantor's property. Each Pledgor agrees that all of its obligations under this Pledge Agreement shall remain in full force and effect without defense, offset or counterclaim of any kind, notwithstanding that such Pledgor's rights against any Pledged Subsidiary may be impaired, destroyed or otherwise affected by reason of any action or inaction on the part of the Collateral Agent or any Holder of Secured Obligations.

(iii) Each Pledgor hereby expressly waives the benefits of any law in any jurisdiction purporting to allow a guarantor or pledgor to revoke a continuing guaranty or pledge with respect to any transactions occurring after the date of the guaranty or pledge.

SECTION 13. Term. This Pledge Agreement shall remain in full force and effect until the Secured Obligations (other than contingent indemnity obligations) shall have been indefeasibly and fully paid in cash and any commitments to extend credit under the Loan Documents shall have terminated. Upon the termination of this Pledge Agreement as provided above (other than as a result of the sale of the Pledged Collateral), the Collateral Agent will release the security interest created hereunder and, if it then has possession of the Pledged Stock, will deliver the Pledged Stock and the Powers to the applicable Pledgor.

SECTION 14. Successors and Assigns. This Pledge Agreement shall be binding upon and inure to the benefit of each Pledgor, the Collateral Agent, for the benefit of itself and the Holders of

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Secured Obligations, and their respective successors and assigns. Each Pledgor's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for such Pledgor.

SECTION 15. **GOVERNING LAW. THIS PLEDGE AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.**

SECTION 16. Consent to Jurisdiction; Waiver of Jury Trial.

(A) Each Pledgor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Pledge Agreement, or for recognition or enforcement of any judgment, and each Pledgor hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each Pledgor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Pledge Agreement shall affect any right that the Collateral Agent may otherwise have to bring any action or proceeding relating to this Pledge Agreement against any Pledgor or its properties in the courts of any jurisdiction.

(B) Each Pledgor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Pledge Agreement in any court referred to in paragraph (a) of this Section. Each Pledgor hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(C) Each party to this Pledge Agreement irrevocably consents to service of process in the manner provided for notices in Section 21 of this Pledge Agreement, and each of the Pledgors hereby appoints the Company as its agent for service of process. Nothing in this Pledge Agreement will affect the right of any party to this Pledge Agreement to serve process in any other manner permitted by law.

(D) Each Pledgor hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of this Pledge Agreement (whether based on contract, tort or any other theory). Each Pledgor (i) certifies that no representative, agent or attorney of any other Pledgor has represented, expressly or otherwise, that such other Pledgor would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other pledgors have been induced to enter into this Pledge Agreement by, among other things, the mutual waivers and certifications in this Section.

SECTION 17. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Pledge Agreement. In the event an ambiguity or question of intent or interpretation arises, this Pledge Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Pledge Agreement.

SECTION 18. Severability. Whenever possible, each provision of this Pledge Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but, if any provision of this Pledge Agreement shall be held to be prohibited or invalid under applicable law,

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such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Pledge Agreement.

SECTION 19. Further Assurances. Each Pledgor agrees that it will cooperate with the Collateral Agent and will execute and deliver, or cause to be executed and delivered, all such other stock powers, proxies, instruments and documents, and will take all such other actions, including, without limitation, the execution and filing of financing statements (and each Pledgor hereby authorizes the Collateral Agent to file any such financing statements), as the Collateral Agent may reasonably deem necessary from time to time in order to carry out the provisions and purposes of this Pledge Agreement.

SECTION 20. The Collateral Agent's Duty of Care. The Collateral Agent shall not be liable for any acts, omissions, errors of judgment or mistakes of fact or law including, without limitation, acts, omissions, errors or mistakes with respect to the Pledged Collateral, except for those arising out of or in connection with the Collateral Agent's (i) gross negligence or willful misconduct, or (ii) failure to use reasonable care with respect to the safe custody of the Pledged Collateral in the Collateral Agent's possession. Without limiting the generality of the foregoing, the Collateral Agent shall be under no obligation to take any steps necessary to preserve rights in the Pledged Collateral against any other parties but may do so at its option. All expenses incurred in connection therewith shall be for the sole account of the Pledgors, and shall constitute part of the Secured Obligations secured hereby.

SECTION 21. Notices. All notices and other communications provided for hereunder shall be delivered in the manner set forth in Section 9.01 of the Credit Agreement.

SECTION 22. Amendments, Waivers and Consents. No amendment or waiver of any provision of this Pledge Agreement nor consent to any departure by the Pledgor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Collateral Agent, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 23. Section Headings. The section headings herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

SECTION 24. Execution in Counterparts. This Pledge Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same agreement. Facsimile transmission of the signature of any party hereto shall be effective as an original signature.

SECTION 25. Merger. This Pledge Agreement and the other Loan Documents embody the final and entire agreement and understanding among the Pledgors, the Collateral Agent and the Holders of Secured Obligations and supersede all prior agreements and understandings among the Pledgors, the Collateral Agent and the Holders of Secured Obligations relating to the subject matter thereof. This Pledge Agreement and the Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties hereto.

SECTION 26. Additional Pledgors. Pursuant to the Credit Agreement, the Company may be required to, and/or to cause certain Subsidiaries to, execute and deliver to the Collateral Agent (i) in the case of a Subsidiary that is not a Pledgor at such time, a Pledge Supplement in the form of Exhibit A hereto and (ii) in the case of the Company or a Subsidiary that is a Pledgor at such time, a Pledge Amendment in the form of Exhibit B hereto, together with such supporting documentation required pursuant to the Credit Agreement as the Collateral Agent may reasonably request, in order to create a

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perfected, first priority security interest in the equity interests in certain Subsidiaries. The execution and delivery of such instrument shall not require the consent of any Pledgor hereunder. The rights and obligations of each Pledgor hereunder shall remain in full force and effect notwithstanding the addition of any new Pledgor as a party to this Pledge Agreement.

The remainder of this page is intentionally blank.

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IN WITNESS WHEREOF, the Pledgors and the Collateral Agent have executed this Pledge Agreement as of the date set forth above.

PHOTRONICS, INC.

By: \_\_\_\_\_  
Name:  
Title:

[OTHER PLEDGORS TO COME]

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

Signature Page to  
Pledge Agreement

ACKNOWLEDGMENT

Each of the undersigned hereby acknowledges receipt of a copy of the foregoing Pledge Agreement, agrees promptly to note on its books the security interests granted under such Pledge Agreement, agrees that after the occurrence and during the continuance of an Event of Default it will comply with instructions originated by the Collateral Agent without further consent by any Pledgor and waives any rights or requirement at any time hereafter to receive a copy of such Pledge Agreement in connection with the registration of any Pledged Collateral in the name of the Collateral Agent or its nominee or the exercise of voting rights by the Collateral Agent or its nominee.

[\_\_\_\_\_]

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[\_\_\_\_\_]

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[\_\_\_\_\_]

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Acknowledgment to  
Pledge Agreement

SCHEDULE I  
to  
PLEDGE AGREEMENT

PLEDGED SUBSIDIARIES

**Pledged Capital Stock**

<u>Pledgor</u>	<u>Record Holder</u>	<u>Pledged Subsidiary</u>	<u>Cert. No.</u>	<u>No. of Shares</u>	<u>% of Interests held by Pledgor</u>	<u>% of Total Outstanding Interests</u>


**Pledged Membership Interests**

<u>Pledgor</u>	<u>Pledged Subsidiary</u>	<u>Percentage of Membership Interest owned by the Pledgor</u>
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**Pledged Partnership Interests**

<u>Pledgor</u>	<u>Pledged Subsidiary</u>	<u>Percentage of Partnership Interest owned by the Pledgor</u>
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SCHEDULE II  
to  
PLEDGE AGREEMENT

TYPES OF ENTITY, JURISDICTION OF ORGANIZATION, CHIEF EXECUTIVE OFFICE LOCATION

<u>Pledgor</u>	<u>Type of Entity</u>	<u>Jurisdiction of Organization</u>	<u>Mailing Address of Chief Executive Office</u>
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PRIOR NAMES OF PLEDGORS  
DURING LAST FIVE YEARS

<u>Pledgor</u>	<u>Prior Name</u>	<u>Date of Name Change</u>
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EXHIBIT A  
to  
PLEDGE AGREEMENT

**FORM OF PLEDGE SUPPLEMENT**

SUPPLEMENT NO. \_\_\_ dated as of \_\_\_\_\_, 20\_\_ to the PLEDGE AGREEMENT dated as of [\_\_\_\_\_], 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement"), among PHOTRONICS, INC., a Connecticut corporation (the "Company") and certain subsidiaries of the Company from time to time signatories thereto (the Company and each of the Subsidiaries being referred to herein individually, as a "Pledgor", and collectively, as the "Pledgors") and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, as contractual representative for the Holders of Secured Obligations (in such capacity, the "Collateral Agent").

Reference is made to the Credit Agreement dated as of June 6, 2007 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Company, certain Subsidiaries of the Company from time to time party thereto as borrowers (together with the Company, the "Borrowers"), the financial institutions from time to time party thereto as lenders (collectively, the "Lenders") and the Collateral Agent.

Capitalized terms used but not defined herein shall have the respective meanings given to such terms in the Pledge Agreement, the Credit Agreement.

The undersigned Subsidiary of the Company (the "New Pledgor") is executing this Supplement in accordance with the requirements of the Credit Agreement to become a Pledgor under the Pledge Agreement in consideration for Loans and Letters of Credit previously made to, or issued for the account of, the Borrowers.

Accordingly, Collateral Agent and the New Pledgor agree as follows:

SECTION 1. In accordance with Section 26 of the Pledge Agreement, the New Pledgor by its signature below becomes a Pledgor under the Pledge Agreement with the same force and effect as if originally named therein as a Pledgor and the New Pledgor hereby agrees (a) to all the terms and provisions of the

Pledge Agreement applicable to it as a Pledgor thereunder and (b) represents and warrants that the representations and warranties made by it as a Pledgor thereunder are true and correct on and as of the date hereof except for representations and warranties which by their express terms refer to a specific date. In furtherance of the foregoing, the New Pledgor, as security for the payment and performance in full of the Secured Obligations, does hereby create and grant to Collateral Agent, its successors and assigns, a security interest in and Lien on all of the New Pledgor's right, title and interest in and to the Pledged Collateral (as defined in the Pledge Agreement) of the New Pledgor. Each reference to a "Pledgor" or the "Pledgors" in the Pledge Agreement shall be deemed to include the New Pledgor. The Pledge Agreement is hereby incorporated herein by reference.

SECTION 2. The New Pledgor represents and warrants to Collateral Agent that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting secured parties' rights generally.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when Collateral Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of the New Pledgor and Collateral Agent. Delivery of an executed signature page to this Supplement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Supplement.

SECTION 4. The New Pledgor hereby represents and warrants that set forth on Schedule I attached hereto is a true and correct schedule with respect to all its Pledged Collateral.

SECTION 5. Except as expressly supplemented hereby, the Pledge Agreement shall remain in full force and effect.

SECTION 6. If for any reason any provision or provisions hereof are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or effect those portions of this Supplement which are valid.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in the Pledge Agreement. All communications and notices hereunder to the New Pledgor shall be given to it at the address set forth under its signature below.

SECTION 8. The New Pledgor agrees to reimburse Collateral Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for Collateral Agent.

IN WITNESS WHEREOF, the New Pledgor and Collateral Agent have duly executed this Supplement to the Pledge Agreement as of the day and year first above written.

[NEW PLEDGOR]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
  
Attention: \_\_\_\_\_  
Telecopier: (\_\_\_\_) \_\_\_\_-\_\_\_\_\_

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
as Collateral Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Schedule I to  
Supplement No. \_\_\_  
to the Pledge Agreement

**Pledged Capital Stock**

<u>Pledgor</u>	<u>Record Holder</u>	<u>Pledged Subsidiary</u>	<u>Certificate Number</u>	<u>Number of Shares</u>	<u>%</u>
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**Pledged Membership Interests**

<u>Pledgor</u>	<u>Pledged Subsidiary</u>	<u>Percentage of Membership Interest owned by the Pledgor</u>
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**Pledged Partnership Interests**

Pledgor Pledged Subsidiary Percentage of Partnership Interest  
owned by the Pledgor

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EXHIBIT B  
to  
PLEDGE AGREEMENT

**FORM OF PLEDGE AMENDMENT**

Reference is hereby made to the Pledge Agreement (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Pledge Agreement”) dated as of [\_\_\_\_\_], 2007, by and between Photronics, Inc., a Connecticut corporation [(the “Pledgor)], and certain of its Subsidiaries [including the undersigned (the “Pledgor)] and JPMorgan Chase Bank, National Association, as contractual representative for the Holders of Secured Obligations (in such capacity, the “Collateral Agent”), whereby the Pledgor has pledged certain capital stock, membership interests and partnership interests, as applicable, of certain of its Subsidiaries as collateral to the Collateral Agent, for the ratable benefit of the Holders of Secured Obligations, as more fully described in the Pledge Agreement. This Amendment is a “Pledge Amendment” as defined in the Pledge Agreement and is, together with the acknowledgments, certificates, and Powers delivered herewith, subject in all respects to the terms and provisions of the Pledge Agreement. Capitalized terms used herein and not defined herein shall have the meanings given to them in the Pledge Agreement.

By its execution below, the Pledgor hereby agrees that (i) the [capital stock of the corporation(s)] [membership interests of the limited liability company(s)] [partnership interests of the partnership(s)] listed on Schedule I hereto shall be pledged to the Collateral Agent as additional collateral pursuant to Section 1(a)(b)(c)(ii) of the Pledge Agreement, (ii) such property shall be considered [Pledged Stock] [Pledged Membership Interests] [Pledged Partnership Interests] under the Pledge Agreement and be a part of the Pledged Collateral pursuant to Section 1 of the Pledge Agreement, and (iii) each such [corporation] [limited liability company] [partnership] listed on Schedule I hereto shall be considered a Pledged Subsidiary for purposes of the Pledge Agreement.

By its execution below, the Pledgor represents and warrants that it has full power and authority to execute this Pledge Amendment and that the representations and warranties contained in Section 6 of the Pledge Agreement are true and correct in all respects as of the date hereof and after taking into account the pledge of the additional [Pledged Stock] [Pledged Membership Interests] [Pledged Partnership Interests] relating hereto. The Pledge Agreement, as amended and modified hereby, remains in full force and effect and is hereby ratified and confirmed.

IN WITNESS WHEREOF, the Pledgor has executed and delivered this Pledge Amendment to the Pledge Agreement as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[PLEDGOR]

By: \_\_\_\_\_  
Name:  
Title:

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Schedule I  
to  
Pledge Amendment

**Pledged Capital Stock**

<u>Pledgor</u>	<u>Record Holder</u>	<u>Pledged Subsidiary</u>	<u>Certificate</u> <u>Number</u>	<u>Number of</u> <u>Shares</u>	<u>%</u>
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**Pledged Membership Interests**

<u>Pledgor</u>	<u>Pledged Subsidiary</u>	Percentage of Membership <u>Interest owned by the Pledgor</u>
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**Pledged Partnership Interests**

<u>Pledgor</u>	<u>Pledged Subsidiary</u>	Percentage of Partnership <u>Interest</u> <u>owned by the Pledgor</u>
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PLEDGE AMENDMENT

The undersigned hereby acknowledges receipt of a copy of the foregoing Pledge Amendment together with a copy of the Pledge Agreement, agrees promptly to note on its books the security interests granted under such Pledge Agreement, agrees that after the occurrence and during the continuance of an Event of Default it will comply with instructions originated by the Collateral Agent without further consent by the Pledgor and waives any rights or requirement at any time hereafter to receive a copy of such Pledge Agreement in connection with the registration of any Pledged Collateral in the name of the Collateral Agent or its nominee or the exercise of voting rights by the Collateral Agent or its nominee.

[NAME[S] OF ADDITIONAL PLEDGED SUBSIDIARY[IES]]

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT C  
to  
PLEDGE AGREEMENT  
**FORM OF STOCK POWER**

FOR VALUE RECEIVED, the undersigned does hereby sell, assign and transfer to \_\_\_\_\_ Shares of Common Stock of \_\_\_\_\_, a \_\_\_\_\_ corporation, represented by Certificate No. \_\_\_\_ (the "Stock"), standing in the name of the undersigned on the books of said corporation and does hereby irrevocably constitute and appoint \_\_\_\_\_ as the undersigned's true and lawful attorney, for it and in its name and stead, to sell, assign and transfer all or any of the Stock, and for that purpose to make and execute all necessary acts of assignment and transfer thereof; and to substitute one or more persons with like full power, hereby ratifying and confirming all that said attorney or substitute or substitutes shall lawfully do by virtue hereof.

Dated: \_\_\_\_\_

[PLEDGOR]

By: \_\_\_\_\_  
Name:  
Title:

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EXHIBIT D  
to  
PLEDGE AGREEMENT  
Form of Control Acknowledgment  
CONTROL ACKNOWLEDGMENT

PLEDGED SUBSIDIARY: [MEMBERSHIP][PARTNERSHIP] INTEREST OWNER:  
[Name of Pledged Subsidiary] [Name of Pledgor]

Reference is hereby made to that certain Pledge Agreement dated as of [\_\_\_\_], 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Pledge Agreement") between Photronics, Inc., a Connecticut corporation, and certain of its Subsidiaries (collectively, the "Pledgor"), a [member][partner] of [Name of Pledged Subsidiary], a [\_\_\_\_] limited [liability company][partnership] (a "Pledged Subsidiary") and JPMorgan Chase Bank, National Association, as contractual representative for the Holders of Secured Obligations (in such capacity, the "Collateral Agent"). Capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in the Pledge Agreement.

Pledged Subsidiary is hereby instructed by the Pledgor that all of the Pledgor's right, title and interest in and to all of the Pledgor's rights in connection with any [membership][partnership] interests in Pledged Subsidiary now and hereafter owned by the Pledgor are subject to a pledge and security interest in favor of Collateral Agent. Pledgor hereby instructs the Pledged Subsidiary to act upon any instruction delivered to it by the Collateral Agent with respect to the Pledged Collateral without seeking further instruction from the Pledgor, and, by its execution hereof, the Pledged Subsidiary agrees to do so.

Pledged Subsidiary, by its written acknowledgement and acceptance hereof, hereby acknowledges receipt of a copy of the aforementioned Pledge Agreement and agrees promptly to note on its books the security interest granted under such Pledge Agreement. Each Pledged Subsidiary also waives any rights or requirements at any time hereafter to receive a copy of such Pledge Agreement in connection with the registration of any Pledged Collateral in the name of the Collateral Agent or its nominee or the exercise of voting rights by the Collateral Agent or its nominee.

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IN WITNESS WHEREOF, the Pledgor has caused this Control Acknowledgment to be duly signed and delivered by its officer duly authorized as of this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

[PLEDGOR]

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged and accepted this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

[PLEDGED SUBSIDIARY]

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT I

[FORM OF]

**INTERCREDITOR AGREEMENT**

This INTERCREDITOR AGREEMENT, dated as of [\_\_\_\_], 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), is entered into by and among JPMorgan Chase Bank, National Association ("JPMorgan"), in its capacity as administrative agent (the "U.S. Agent") for the "Lenders" under the U.S. Agreement (as defined below) (such Lenders, the "U.S. Banks"), JPMorgan Chase Bank, N.A., Shanghai Branch in its capacity as administrative agent (the "Chinese Agent") for the "Lenders" under the Chinese Loan Documents (as defined below, the "Chinese Lenders"; the U.S. Banks, the Chinese Lenders, the U.S. Agent and the Chinese Agent, together with their respective successors and assigns, are herein sometimes collectively called the "Lenders" and individually called a "Lender"), and JPMorgan, in its capacity as contractual representative for the Lenders hereunder (the "Collateral Agent"). Capitalized terms used herein but not defined herein shall have the meanings set forth in the "U.S. Agreement" or the "Chinese Agreement" (each as defined below), as the context may require.

RECITALS:

WHEREAS, Photronics, Inc. (herein called the "Company"), certain Subsidiaries of the Company from time to time party thereto as borrowers (collectively with the Company, the "U.S. Borrowers"), the U.S. Banks, and the U.S. Agent entered into that certain Credit Agreement dated as of June 6, 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "U.S. Agreement"), pursuant to which, among other things, the U.S. Banks have agreed to make certain advances to the Company and certain of its Subsidiaries (the "U.S. Loans") and to issue letters of credit for the account of the Company (the "Letters of Credit");

WHEREAS, Photronics Imaging Technologies (Shanghai) Co., Ltd. (the "Chinese Borrower"; collectively with the U.S. Borrowers, the "Borrowers"), the Chinese Lenders, and the Chinese Agent entered into that certain Amended and Restated Agreement dated as of [\_\_\_\_], 2007 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Chinese Agreement"; and together with the U.S. Loan Documents and the Chinese Loan Documents, the "Lender Documents"), pursuant to which, among other things, the Chinese Lenders have agreed to make certain advances to the Chinese Borrower (the "Chinese Loans") and the obligations in respect of which have been guaranteed by the Company pursuant to the Chinese Credit Facility Guarantee;

WHEREAS, pursuant to the terms of the Collateral Documents, each of the Company and certain of its Subsidiaries (the "Guarantors") that have guaranteed the repayment of all amounts due and payable under the Lender Documents, may from time to time grant a security interest in certain of its assets to the Collateral Agent; and

WHEREAS, the Lenders desire to agree to the relative priority of the application of payments received pursuant to the terms of the Collateral Documents with respect to the Obligations (as defined below), and certain other rights and interests;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the U.S. Agent, the Chinese Agent and the Collateral Agent hereby agree as follows:

1. Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Actionable Default" means, under the U.S. Loan Documents or the Chinese Loan Documents, (a) a Default shall have occurred thereunder as a result of (i) the nonpayment of amounts owing thereunder, (ii) noncompliance with any financial covenant (e.g. Section 6.11 of the U.S. Agreement) set forth therein or (iii) the bankruptcy or insolvency of any Borrower or any of its affiliates, including, without limitation, the Guarantors, (b) a notice shall have been delivered to the Company by the U.S. Agent under the U.S. Loan Documents or to any Borrower by the Chinese Agent under the Chinese Loan Documents indicating that an Event of Default (as defined therein) has occurred and is continuing and the Obligations due under any such Agreement are immediately due and payable, to the extent provided for in the applicable Lender Document, or (c) a default shall have occurred under any Collateral Document or Guaranty (defined below) and the U.S. Agent, the Chinese Agent, the Collateral Agent, or any other Lender, as applicable, shall have caused the amounts owing thereunder to become immediately due and payable, to the extent provided for in the applicable Collateral Document or Guaranty.

“Agent’s Expenses” means all of the fees, costs and expenses of the Collateral Agent (including, without limitation, the reasonable fees and disbursements of its counsel) (i) arising in connection with the preparation, execution, delivery, modification, restatement, amendment or termination of this Agreement and each Collateral Document, if not previously reimbursed, or the enforcement (whether in the context of a civil action, adversarial proceeding, workout or otherwise) of any of the provisions hereof or thereof, or (ii) incurred or required to be advanced in connection with the sale or other disposition or the custody, preservation or protection of the Collateral pursuant to any Collateral Document and the exercise or enforcement of the Collateral Agent’s rights under this Agreement and in and to the Collateral.

“Chinese Loan Documents” means the “Chinese Credit Facility Documents” (as defined in the U.S. Agreement).

“Collateral” means all property of any Borrower or any Guarantor in which the Collateral Agent shall have been granted a security interest or lien under any of the Collateral Documents.

“Collateral Account” means the collateral account established and maintained by the Collateral Agent pursuant to Section 8.

“Collateral Documents” means any and all security agreements, pledge agreements, financing statements, and other similar instruments executed by any Borrower or any Guarantor in favor of the Collateral Agent from time to time pursuant hereto, in each case as such agreements, documents and instruments may be amended, modified, supplemented and/or restated, and together in each case with any other agreements, instruments and documents incidental thereto.

“Default” means (a) any “Event of Default” (as defined in the U.S. Agreement) or (b) any “Event of Default” (as defined in the Chinese Agreement).

“Distribution Date” means the second business day in each calendar week, commencing with the first such business day following receipt by the Collateral Agent of a Notice of Actionable Default.

“Guaranty” means any guaranty entered into by a Guarantor in favor of the U.S. Agent, the Chinese Agent, the Collateral Agent, and/or any Lender guaranteeing the repayment of the Obligations due and payable under a Lender Document.

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“L/C Interests” means, with respect to any U.S. Bank, such U.S. Bank’s direct or participation interests in all unpaid reimbursement obligations with respect to Letters of Credit and such U.S. Bank’s direct obligations or risk participations with respect to undrawn amounts of all outstanding Letters of Credit, provided that the undrawn amounts of outstanding Letters of Credit shall be considered to have been reduced to the extent of any amount on deposit with the U.S. Agent at any time as provided in Section 9(b) hereof.

“Notice of Actionable Default” means a written notice to the Collateral Agent from the U.S. Agent or the Chinese Agent stating that it is a “Notice of Actionable Default” hereunder and certifying that an Actionable Default has occurred and is continuing. A Notice of Actionable Default may be included in a written direction to the Collateral Agent from the Requisite Lenders pursuant to Section 5.

“Notice of Default” means a written notice to the Collateral Agent from the U.S. Agent or the Chinese Agent stating that it is a “Notice of Default” hereunder and certifying that an Event of Default (as defined in the U.S. Agreement or the Chinese Agreement) has occurred and is continuing.

“Obligations” means the “Secured Obligations” as defined in the U.S. Agreement; provided that the undrawn amounts of any outstanding Letters of Credit shall be considered to have been reduced to the extent of any amount on deposit with the U.S. Agent at any time as provided in Section 9(b) hereof.

“Principal Exposure” means, with respect to any Lender at any time (i) if such Lender is a U.S. Bank, the aggregate amount of such Lender’s Commitment under the U.S. U.S. Agreement, or, if the U.S. Banks shall then have terminated the Commitments, the sum of (x) the outstanding principal amount of such Lender’s U.S. Loans and (y) the outstanding face and/or principal amount of such Lender’s L/C Interests at such time, and (ii) if such Lender is a Chinese Lender, the aggregate amount of such Lender’s Commitment under the Chinese Agreement, or, if the Chinese Lenders shall have terminated their Commitments, the outstanding principal amount of such Lender’s Chinese Loans at such time.

“Pro Rata Share” means, with respect to any Lender at any time, a fraction (expressed as a percentage), the numerator of which is the amount of such Lender’s Principal Exposure at such time, and the denominator of which is the aggregate amount of the Principal Exposure of all of the Lenders at such time.

“Requisite Lenders” means, at any time, Lenders whose Pro Rata Shares exceed fifty percent of the aggregate Pro Rata Shares.

“U.S. Loan Documents” means the “Loan Documents” (as defined in the U.S. Agreement).

2. Appointment; Nature of Relationship. The U.S. Agent, on behalf of the U.S. Banks, and the Chinese Agent, on behalf of the Chinese Lenders, hereby designate and appoint JPMorgan as their Collateral Agent under this Agreement and the Collateral Documents, and each of them hereby irrevocably authorizes the Collateral Agent to take such action on its behalf under the provisions of this Agreement and the Collateral Documents and to exercise such powers as are set forth herein or therein, together with such other powers as are incidental thereto. The Collateral Agent agrees to act as such on the express terms and conditions contained in this Agreement. Notwithstanding the use of the defined term “Collateral Agent,” it is expressly understood and agreed that the Collateral Agent shall not have any

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fiduciary responsibilities to any Lender by reason of this Agreement and that the Collateral Agent is merely acting as the representative of the Lenders with only those duties as are expressly set forth in this Agreement and the Collateral Documents. In its capacity as the Lenders’ contractual representative, the Collateral Agent (i) does not assume any fiduciary duties to any of the Lenders and (ii) is acting as an independent contractor, the rights and duties of which are limited to those expressly set forth in this Agreement and the Collateral Documents. The U.S. Agent, on behalf of the U.S. Banks, and the Chinese Agent, on behalf of the Chinese Lenders, agrees to assert no claim against the Collateral Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims each of them hereby waives.



3. Powers and Duties. The Collateral Agent shall have and may exercise such powers under the Collateral Documents as are specifically delegated to the Collateral Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. The Collateral Agent shall have no implied duties to the Lenders, or any obligation to the Lenders to take any action hereunder or under any of the Collateral Documents, except any action specifically required by this Agreement or any of the Collateral Documents to be taken by the Collateral Agent or directed by the Requisite Lenders in accordance with the terms hereof. The Collateral Agent shall not take any action which is in conflict with any provisions of applicable law or of this Agreement or any Collateral Document.

4. Authorization to Execute Collateral Documents. If the Collateral Agent receives written notice from the U.S. Agent or the Chinese Agent at any time or from time to time hereunder that Collateral Documents are required pursuant to the U.S. Agreement or the Chinese Agreement in connection with the grant of a security interest in and lien against the assets of any Borrower and/or a Guarantor, the Collateral Agent is authorized to and shall execute and deliver such Collateral Documents as the U.S. Agent or the Chinese Agent shall direct requiring execution and delivery by it and is authorized to and shall accept delivery from the Company of such Collateral Documents as the U.S. Agent or the Chinese Agent shall direct which do not require execution by the Collateral Agent.

5. Direction by Requisite Lenders. Except as otherwise provided in this Section 5, the Collateral Agent shall take any action with respect to the Collateral and the Collateral Documents directed in writing by the Requisite Lenders. Notwithstanding the foregoing, the Collateral Agent shall not be obligated to take any such action (i) which is in conflict with any provisions of applicable law or of this Agreement or any Collateral Document or (ii) with respect to which the Collateral Agent, in its opinion, shall not have been provided adequate security and indemnity against the costs, expenses and liabilities that may be incurred by it as a result of compliance with such direction. Under no circumstances shall the Collateral Agent be liable for following the written direction of the Requisite Lenders.

6. Notice of Actionable Default. Any of the U.S. Agent or the Chinese Agent may give the Collateral Agent a Notice of Default or a Notice of Actionable Default in the manner provided in Section 31. If and only if the Collateral Agent shall have received a Notice of Actionable Default, the Collateral Agent shall, if and only if directed in writing by the U.S. Agent or the Requisite Lenders, exercise the rights and remedies provided in this Agreement and in any of the Collateral Documents.

7. Remedies. Each of the Lenders hereby irrevocably agrees that the Collateral Agent shall be authorized, after the occurrence of an Actionable Default and at the direction of the U.S. Agent or the Requisite Lenders or incidental to any such direction, for the purpose of carrying out the terms of this Agreement and any of the Collateral Documents, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes hereof and thereof, including, without limiting the generality of the foregoing, to the extent permitted by applicable law, to do the following:

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(i) to ask for, demand, sue for, collect, receive and give acquittance for any and all moneys due or to become due with respect to the Collateral,

(ii) to receive, take, endorse, assign and deliver any and all checks, notes, drafts, acceptances, documents and other negotiable and nonnegotiable instruments, documents and chattel paper taken or received by the Collateral Agent in connection with this Agreement or any of the Collateral Documents,

(iii) to commence, file, prosecute, defend, settle, compromise or adjust any claim, suit, action or proceeding with respect to the Collateral,

(iv) to sell, transfer, assign or otherwise deal in or with the Collateral or any part thereof pursuant to the terms and conditions of this Agreement and the Collateral Documents, and

(v) to do, at its option and at the expense and for the account of the Lenders (to the extent the Collateral Agent shall not be reimbursed by the Borrowers) at any time or from time to time, all acts and things which the Collateral Agent deems reasonably necessary to protect or preserve the Collateral and to realize upon the Collateral.

8. The Collateral Account. Upon receipt by the Collateral Agent of a Notice of Actionable Default, and until such time as the Event of Default described therein is cured or waived, the Collateral Agent shall establish and maintain at its principal office an interest-bearing account that shall be entitled the "Photronics Collateral Account." All moneys received by the Collateral Agent with respect to Collateral after receipt of a Notice of Actionable Default shall be deposited in the Collateral Account and thereafter shall be held, applied and/or disbursed by the Collateral Agent in accordance with Section 9. In addition, any other payments ("Turnover Payments") received, directly or indirectly, by any Lender (a "Turnover Lender") of or with respect to any of the Obligations (including, without limitation, any payment by any Guarantor under any Guaranty) after giving or receiving a Notice of Actionable Default (excluding any payments distributed to any Lender by the Collateral Agent in accordance with Section 9), any payment received by any Lender with respect to any of the Obligations in an insolvency or reorganization proceeding or otherwise with respect to any Borrower or any Guarantor, shall promptly be delivered to the Collateral Agent and thereafter shall be held, applied and/or disbursed by the Collateral Agent in accordance with Section 9. The Collateral Account at all times shall be subject to the exclusive dominion and control of the Collateral Agent. In the event that any distribution of a Turnover Payment is received by any Lender (other than the applicable Turnover Lender), then such Lender that received such distribution of a Turnover Payment shall purchase from such Turnover Lender an undivided participation interest in such Turnover Lender's Obligations in an amount such that, after such purchase, the amount of any such distributions (after deduction of such Turnover Payment) shall have been shared ratably among the Lenders as contemplated by Section 9(a) hereof.

9. Application of Moneys. (a) All moneys held by the Collateral Agent in the Collateral Account shall be distributed by the Collateral Agent on each Distribution Date as follows:

FIRST: To the Collateral Agent in an amount equal to the Agent's Expenses that are unpaid as of such Distribution Date, and to any Lender that has theretofore advanced or paid any such Agent's Expenses in an amount equal to the amount thereof so advanced or paid by such Lender prior to such Distribution Date;

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SECOND: To the Lenders pro rata in proportion to the respective amounts of the Obligations owed by the Company to the Lenders under the Lender Documents as of such Distribution Date; and

THIRD: Any surplus remaining after payment in full in cash of all Agent's Expenses and all of the Obligations shall be paid to the Company, or to whomever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct, provided that if any Lender shall have notified the Collateral Agent in writing that a claim is pending for which such Lender is entitled to the benefits of an indemnification, reimbursement or similar provision under which amounts are not yet due but with respect to which the Company or any of its Subsidiaries continues to be contingently liable, and amounts payable by the Company or any of its Subsidiaries with respect thereto are secured by the Collateral, the Collateral Agent shall continue to hold the amount specified in such notice in the Collateral Account until the liability of the Company or such Subsidiary with respect thereto is discharged or released to the satisfaction of such Lender.

Notwithstanding the foregoing, except for any surplus under clause THIRD above, the Collateral Agent shall not be required (unless directed by the Requisite Lenders) to make a distribution on any Distribution Date if the balance in the Collateral Account available for distribution on such Distribution Date is less than \$10,000. The Collateral Agent shall not be responsible for any Lender's application (or order of application) of payments received by such Lender from the Collateral Agent hereunder to the Obligations owing to such Lender. For the purpose of determining the amounts to be distributed pursuant to clause SECOND of subsection (a) above with respect to the undrawn amounts of the outstanding Letters of Credit, such undrawn amounts shall be reduced by any amounts held as collateral pursuant to subsection (b) of this Section 9.

(b) Any distribution pursuant to clause SECOND of subsection (a) above with respect to the undrawn amount of any outstanding Letter of Credit shall be paid to the U.S. Agent to be held as collateral for the U.S. Banks and disposed of as provided in this subsection (b). On each date on which a payment is made to a beneficiary pursuant to a draw on a Letter of Credit, the U.S. Agent shall distribute to the U.S. Banks from the amounts held pursuant to this subsection (b) for application to the payment of the reimbursement obligation due to such U.S. Banks with respect to such draw an amount equal to the product of (1) the total amount then held pursuant to this subsection (b), and (2) a fraction, the numerator of which is the amount of such draw and the denominator of which is the aggregate undrawn amount of all outstanding Letters of Credit immediately prior to such draw. On each date on which a reduction in the undrawn amount of any outstanding Letter of Credit occurs other than on account of a payment made to a beneficiary pursuant to a draw on such Letter of Credit, the U.S. Agent shall distribute from the amounts held pursuant to this subsection (b) an amount equal to the product of (1) the total amount then held pursuant to this subsection (b) and (2) a fraction the numerator of which is the amount of such reduction and the denominator of which is the aggregate undrawn amount of all outstanding Letters of Credit immediately prior to such reduction, which amount shall be distributed as provided in clause SECOND of subsection (a) above. At such time as no Letters of Credit are outstanding, any remaining amount held pursuant to this subsection (b), after the distribution therefrom as provided above, shall be distributed as provided in clause SECOND of subsection (a) above.

10. Information from Lenders. Each of the Lenders hereby agrees, promptly upon request by the Collateral Agent, to provide to the Collateral Agent in writing such information regarding the Obligations held by such Lender as may be reasonably required by the Collateral Agent at any time to determine such Lender's Pro Rata Share or to calculate distributions to such Lender from the Collateral

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Account. Each Lender shall notify the Collateral Agent in writing promptly following the repayment in full of all Obligations owing to such Lender.

11. Limitation on Collateral Agent's Duties in Respect of Collateral. Other than the Collateral Agent's duties set forth in this Agreement and the Collateral Documents as to the custody of Collateral and the proceeds thereof received by the Collateral Agent hereunder and thereunder and the accounting to the Borrowers, the Guarantors, and the Lenders therefor, the Collateral Agent shall have no duty to the Borrowers, the Guarantors, or the Lenders with respect to any Collateral in its possession or control or in the possession or control of its agent or nominee, any income thereon, or the preservation of rights against prior parties or any other rights pertaining thereto.

12. Lender Credit Decision. Each Lender acknowledges that it has, independently and without reliance upon the Collateral Agent or any other Lender and based on the financial information provided by the Company and its Subsidiaries and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Collateral Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the Collateral Documents.

13. Exculpation. Neither the Collateral Agent nor any of its directors, officers, affiliates, agents or employees shall be responsible for or have any duty to ascertain, inquire into, or verify (i) any statement, warranty or representation made by any Borrower or any Guarantor in connection with any Collateral Document or Guaranty; (ii) the performance or observance of any of the covenants or agreements of any Borrower, or any Guarantor under any Collateral Document or Guaranty; (iii) the satisfaction or observance of any condition or covenant specified in any of the Lender Documents; (iv) the existence or possible existence of any default under any of the Lender Documents or any Actionable Default; (v) the validity, enforceability, effectiveness or genuineness of any Collateral Document, Guaranty or any other instrument or writing furnished in connection herewith; (vi) the validity, perfection or priority of any security interest or lien created under any Collateral Document; or (vii) the financial condition of the Company or any of its Subsidiaries.

14. Employment of Agents and Counsel. The Collateral Agent may execute any of its duties as the Collateral Agent hereunder and under any Collateral Document by or through employees, agents, and attorneys-in-fact and shall not be answerable to the Lenders, except as to money or securities received by it or its authorized agents, for the default or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. The Collateral Agent shall be entitled to advice of counsel concerning the contractual arrangement between the Collateral Agent and the Lenders and all matters pertaining to the Collateral Agent's duties hereunder and under the Collateral Documents.

15. Reliance on Documents and Counsel. The Collateral Agent shall be entitled to rely upon any notice, consent, certificate, affidavit, letter, telegram, statement, paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, and, in respect to legal matters, upon the opinion of counsel selected by the Collateral Agent, which may be employees of the Collateral Agent.

16. Collateral Agent's Reimbursement and Indemnification. The Lenders agree to reimburse and indemnify the Collateral Agent ratably in proportion to their respective Pro Rata Shares as of the date of the occurrence of the event as to which such reimbursement or indemnification is being made (i) for any costs or expenses not reimbursed by any Borrower, or any Guarantor, under its Collateral Documents or Guaranty, as applicable, (ii) for any other expenses incurred by the Collateral Agent, on

behalf of the Lenders, in connection with the preservation or protection of the Collateral or the validity, perfection or priority of the Collateral Agent's interest therein or the enforcement of the Collateral Documents and (iii) for any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Collateral Agent in any way relating to or arising out of the Collateral Documents or any other document delivered in connection therewith or the transactions contemplated thereby, or the enforcement of any of the terms thereof or of any such other documents, provided that no Lender shall be liable for any of the foregoing to the extent any of the foregoing is found by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of the Collateral Agent. The agreements in this Section 16 shall survive the repayment of the Obligations and the termination of the other provisions of this Agreement.

17. Rights as a Lender. Notwithstanding that JPMorgan is acting as the Collateral Agent hereunder, JPMorgan in its individual capacity shall have the same rights and powers hereunder as any Lender and may exercise the same as though it were not the Collateral Agent, and the term "Lender" or "Lenders" shall include JPMorgan in its individual capacity.

18. Successor Collateral Agent. The Collateral Agent may resign at any time by giving not less than thirty days' prior written notice thereof to the Lenders and the Borrowers. Upon any such resignation, the Requisite Lenders shall have the right to appoint, on behalf of the Lenders, a successor Collateral Agent. If no successor Collateral Agent shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty days after the retiring Collateral Agent's giving notice of resignation, then the retiring Collateral Agent may appoint, on behalf of the Lenders, a successor Collateral Agent. Upon the acceptance of any appointment as the Collateral Agent hereunder by a successor Collateral Agent, such successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent, and the retiring Collateral Agent shall be discharged from its duties and obligations hereunder and under the Collateral Documents. No resignation of the Collateral Agent shall become effective until a replacement Collateral Agent shall have been selected as provided herein and shall have assumed in writing the obligations of the Collateral Agent hereunder and under the Collateral Documents. Any successor Collateral Agent shall be a bank, trust company, or insurance company having capital, surplus, and undivided profits of at least \$250,000,000. After any retiring Collateral Agent's resignation hereunder as Collateral Agent, the provisions of this Agreement shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent hereunder and under the Collateral Documents.

19. Partial Release. If the Collateral Agent receives written notice from the U.S. Agent and the Chinese Agent that the lien on any Collateral granted pursuant to any Collateral Document is required to be released pursuant to a transaction permitted by the terms of the U.S. Agreement and the Chinese Agreement, the Collateral Agent shall promptly release such Collateral in accordance with the directions of the U.S. Agent and the Chinese Agent.

20. Release and Termination. All of the Collateral shall be released and this Agreement shall be terminated on the earlier of:

(a) the date on which (i) the Collateral Agent shall have received from the U.S. Agent and the Chinese Agent written notice that all Obligations (other than contingent indemnification obligations) have been paid in full and (ii) all Agent's Expenses shall have been paid in full in cash; or

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(b) the date on which (i) the Collateral Agent shall have received written notice from the U.S. Agent directing the Collateral Agent to release the Collateral and stating that the requisite U.S. Banks have consented to such release under the terms of the U.S. Agreement, and (ii) all Agent's Expenses shall have been paid in full in cash.

21. Amendments and Waivers of Collateral Documents. The Collateral Agent shall not execute or deliver any amendment or waiver, other than any amendments or waivers which are of a technical nature or which could not reasonably be expected to cause a material adverse affect on any of the Lenders or the U.S. Banks (taken as a whole) or the Chinese Lenders (taken as a whole), as applicable, with respect to any Collateral Document except at the direction or with the consent of the Requisite Lenders.

22. Notices With Respect to Lender Documents. Each of the U.S. Agent and the Chinese Agent agrees to use its best efforts to give to the other (a) copies of any notice of the occurrence or existence of any default in payment of the Obligations sent to the Company and/or any Subsidiary of the Company, simultaneously with the sending of such notice to the Company and/or such Subsidiary, and (b) notice of any acceleration of the U.S. Loans or the Chinese Loans, promptly upon such acceleration, but the failure to give any of the foregoing notices shall not affect the validity of such notice of default or such acceleration or create a cause of action against or cause a forfeiture of any rights of the party failing to give such notice or create any claim or right on behalf of any third party.

23. No Other Security. None of the Lenders shall take or receive a security interest in or lien upon any of the property or assets of the Company or any of its Subsidiaries as security for the Obligations other than pursuant to this Agreement and the Collateral Documents or as security for any other obligations of the Company or any of its Subsidiaries other than the Obligations.

24. Accounting; Invalidated Payments. (a) Each Lender agrees to render an accounting to any of the others of the outstanding amounts of the Obligations, of receipts of payments from the Company, any Subsidiary of the Company and any Guarantor and of other items relevant to the provisions of this Agreement upon the reasonable request from one of the others as soon as reasonably practicable after such request.

(b) To the extent that any payment received by any Lender pursuant to a distribution under Section 9(a) hereof is subsequently invalidated, declared fraudulent or preferential, set aside or required to be paid to a trustee, receiver, or any other party under any bankruptcy act, state or federal law, common law or equitable cause, then each other Lender that received a payment pursuant to such distribution shall purchase from the Lender whose payment was invalidated (the "Affected Lender"), at such time as the Affected Lender is required to return or repay such payment, an undivided participation interest in the Affected Lender's Obligations in an amount such that after such purchase the amount of such distribution (after deduction of the invalidated payment) shall have been shared ratably among the Lenders as contemplated by Section 9(a) hereof.

25. Continuing Agreement. This Agreement shall in all respects be a continuing, absolute, unconditional and irrevocable agreement, and shall remain in full force and effect until terminated in accordance with Section 20. Without limiting the generality of the foregoing, this Agreement shall survive the commencement of any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar proceeding involving the Company, a Subsidiary of the Company or a Guarantor. Each Lender agrees that this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations pursuant to any distribution hereunder is rescinded or must otherwise

be restored by any Lender, upon the insolvency, bankruptcy or reorganization of the Company, a Subsidiary of the Company or a Guarantor or otherwise, as though such payment had not been made.

26. Representations and Warranties. Each of the parties hereto severally represents and warrants to the other parties hereto that it has full corporate power, and has taken all action necessary, to execute and deliver this Agreement and to fulfill its obligations hereunder, and that no governmental or other authorizations are required in connection herewith, and that this Agreement constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium, regulatory and similar laws of general application and by general principles of equity.

27. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the Collateral Agent, the U.S. Agent, the Chinese Agent, the Lenders and each of their respective successors, transferees and assigns. Without limiting the generality of the foregoing sentence, if any Lender assigns or otherwise transfers (in whole or in part) to any other person or entity the Obligations to such Lender under either of the U.S. Agreement or the Chinese Agreement, such other person or entity shall thereupon become vested with all rights and benefits, and become subject to all the obligations, in respect thereof granted to or imposed upon such Lender under this Agreement.

28. No Reliance by Company. None of the Company, any Subsidiary of the Company, or any Guarantor shall have any rights under this Agreement or be entitled, in any manner whatsoever, to rely upon or enforce, or to raise as a defense, the provisions of this Agreement or the failure of the Collateral Agent or any Lender to comply with such provisions.

29. Other Proceedings. Nothing contained herein shall limit or restrict the independent right of any Lender to initiate an action or actions in any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar proceeding in its individual capacity and to appear or to be heard on any matter before the bankruptcy or other applicable court in any such proceeding, including, without limitation, with respect to any questions concerning the post-petition usage of collateral and post-petition financing arrangement; provided that no Lender shall contest the validity or enforceability of or seek to avoid, have declared fraudulent or have set aside any of the Obligations.

30. Amendments and Waivers. No amendment to or waiver of any provision of this Agreement, nor consent to any departure by any Lender or the Collateral Agent herefrom, shall in any event be effective unless the same shall be in writing and signed by the U.S. Agent (on behalf of the U.S. Banks), the Chinese Agent (on behalf of the Chinese Lenders), and the Collateral Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No consent of a Borrower or a Guarantor shall be required for any such amendment, waiver or departure unless it relates to a provision of this Agreement expressly binding upon such Borrower or such Guarantor.

31. Notices. All notices and other communications provided to any party under this Agreement shall be in writing or by facsimile and addressed, delivered or transmitted to such party at its address or facsimile number set forth (a) in the case of the U.S. Agent, the Collateral Agent and each of the U.S. Banks, on Annex I hereto, (b) in the case of the Chinese Agent and each of the Chinese Lenders, on Annex II hereto, (c) in the case of any Borrower or any Guarantor, on Annex III hereto, or (d) in any case, at such other address or facsimile number as may be designated by such party in a notice to the other parties. Any notice, if mailed and properly addressed with postage prepaid or if properly addressed and sent by prepaid courier service, shall be deemed given when received; and notice, if transmitted by facsimile, shall be deemed given when transmitted if actually received, and the burden of proving receipt shall be on the transmitting party. So long as no default shall have occurred and be continuing under the U.S. Agreement or the Chinese Agreement, each of the U.S. Agent and the Chinese Agent agrees to use its best efforts to send to the Company a copy of any notice such party gives to the other under this

Agreement, but the failure to send such copy to the Company shall not affect the validity of such notice or create a cause of action against or cause a forfeiture of any rights of the party failing to send such copy or create any claim or right on behalf of the Company or any of its Subsidiaries.

32. No Waiver. No failure or delay on the part of any Lender or the Collateral Agent in exercising any power or right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof or the exercise of any other power or right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

33. Severability. Whenever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

34. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

35. **GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. THIS AGREEMENT CONSTITUTES THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDES ANY PRIOR AGREEMENTS, WRITTEN OR ORAL, WITH RESPECT THERETO.**

36. Counterparts. This Agreement may be separately executed and delivered in counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to constitute one and the same Agreement. Facsimile transmission of the signature of any party hereto shall be effective as an original signature.

37. Headings. Section headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

The remainder of this page is intentionally blank.

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

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
as U.S. Agent on behalf of the U.S. Banks

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A., SHANGHAI BRANCH,  
as Chinese Agent on behalf of the Chinese Lenders

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,  
as Collateral Agent

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged by:

PHOTRONICS, INC.

By: \_\_\_\_\_  
Name:  
Title:

PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD.

By: \_\_\_\_\_  
Name:  
Title:

Signature Page to  
Intercreditor Agreement

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ANNEX I

NOTICE INFORMATION: Any notice or other information required to be delivered hereunder to the U.S. Agent, the U.S. Banks and/or the Collateral Agent shall be delivered to the following:

[c/o]JPMorgan Chase Bank, National Association  
[\_\_\_\_\_]

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ANNEX II

NOTICE INFORMATION: Any notice or other information required to be delivered hereunder to the Chinese Agent and the Chinese Lenders shall be delivered to the following:

[c/o]JPMorgan Chase Bank, N.A., Shanghai Branch  
[\_\_\_\_\_]

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ANNEX III

NOTICE INFORMATION: Any notice or other information required to be delivered hereunder to any Borrower and/or any Guarantor shall be delivered to the following:

Photronics, Inc.  
15 Secor Road  
Brookfield, Connecticut 06804  
Attention: Sean T. Smith (Telecopy: 203-740-5612)  
Attention: Edwin Lewis, Esq. (Telecopy: 203-740-5312)

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**AMENDED AND RESTATED AGREEMENT**

AUGUST 23, 2007

RMB186,000,000

CREDIT FACILITY

for

PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD

with

JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH,  
as Administrative Agent**ALLEN & OVERY**

Allen &amp; Overy LLP

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**THIS AGREEMENT** is dated August 23, 2007

### BETWEEN:

- (1) **PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD** (the **Company**); and
- (2) **THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1** as lenders; and
- (3) **JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH** as Administrative Agent (in this capacity the **Administrative Agent**).

### BACKGROUND:

- (A) A revolving credit and term loan facility (the **2005 Facility**) was established in favour of the Company pursuant to the terms of the Agreement dated 10 October 2005 (as amended and modified through the date of this Agreement, the **2005 Loan Agreement**) between the Company, as borrower, and JPMorgan Chase Bank, N.A., Shanghai Branch, as lender.
- (B) On August 6, 2007, "JPMorgan Chase Bank (China) Company Limited, Shanghai Branch" was incorporated pursuant to the People's Republic of China Regulations on Administration of Foreign Funded Banks (State Council Decree No. 478), and in connection therewith the interests of JPMorgan Chase Bank, N.A., Shanghai Branch, as lender under the 2005 Loan Agreement and related loan documents, were transferred to JPMorgan Chase Bank (China) Company Limited, Shanghai Branch (as such successor, the **Original Lender**).
- (C) The Original Lender will retain a portion of, and will assign to the other lenders listed in Schedule 1 (such lenders, together with the Original Lender, the **Replacement Lenders**) the remaining portion of the loans and commitments under the 2005 Facility on the terms and conditions provided herein, and the Company and the Replacement Lenders have agreed to amend and restate the 2005 Facility on the terms and conditions provided herein.
- (D) This Agreement is given in an amendment to, restatement of and substitution for the 2005 Loan Agreement.

**IT IS AGREED** as follows:

## 1. INTERPRETATION

### 1.1 Definitions

In this Agreement:

**Affiliate** means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

**Agents** means the Administrative Agent (and any successor administrative agent) and the Collateral Agent.



**Availability Period** means the period from and including the date of the 2005 Loan Agreement to and including:

- (a) for a Term Loan, 10 July 2006; and
- (b) for a Revolving Credit Loan, 11 October 2010.

**Break Costs** means the amount (if any) which a Lender is entitled to receive under Clause 21.3 (Break Costs).

**Business Day** means a day (other than a Saturday or a Sunday) on which banks are open for general business in Shanghai.

**CBRC** means China Banking Regulatory Commission, the banking regulatory authority in PRC.

**CBRC Rules** means the Administration Rules on the Connected Transactions of Commercial Banks with Insiders and Shareholders issued by CBRC, which took effect on 1 May 2004.

**Change in Control** means:

- (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any other person or group (within the meaning of the U.S. Securities Exchange Act of 1934, as amended, and the rules of the U.S. Securities and Exchange Commission as in effect on the date of this Agreement) of shares representing more than 35 per cent. of the aggregate ordinary voting power represented by the issued and outstanding capital stock of the Guarantor; or
- (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Guarantor by persons who were neither nominated by the board of directors of the Guarantor nor appointed by directors so nominated.

**Collateral Agent** means JPMorgan Chase Bank, National Association in its capacity as Collateral Agent for the Holders of Secured Obligations and any successor Collateral Agent appointed pursuant to the terms of the Intercreditor Agreement.

**Commitment** means the Revolving Credit Commitment or Term Loan Commitment, as so designated, of a Lender under a particular Facility.

**Compliance Certificate** means a certificate delivered by a Financial Officer of the Company certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto.

**Default** means:

- (a) an Event of Default; or

- 
- (b) an event or circumstance which would be (with the expiry of a grace period, the giving of notice or the making of any determination under the Finance Documents or any combination of them) an Event of Default.

**Event of Default** means an event specified as such in Clause 17 (Default).

**Facility** means a credit facility made available under this Agreement.

**Facility Guarantee Secured Parties** means the holders of the obligations of the Guarantor under the Guarantee and the other Finance Documents from time to time and shall include their respective successors, transferees and assigns.

**Facility Office** means the office(s) notified by a Lender to the Administrative Agent:

- (a) on or before the date it becomes a Lender; or
- (b) by not less than five Business Days' notice,

as the office(s) through which it will perform its obligations under this Agreement.

**Final Maturity Date** means:

- (a) for a Term Loan, 11 October 2010; and
- (b) for a Revolving Credit Loan, 11 October 2010.

**Finance Document** means:

- (a) this Agreement;

- (b) the Guarantee;
- (c) the Pledge Agreements (as defined in the Guarantee);
- (d) the Intercreditor Agreement (as defined in the Guarantee); or
- (e) any other document designated as such by the Administrative Agent and the Company.

**Finance Party** means a Lender or the Administrative Agent.

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) any borrowed money;
- (b) any acceptance credit (including any dematerialised equivalent);
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;

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- (e) any agreement treated as a finance or capital lease in accordance with generally accepted accounting principles in the jurisdiction of incorporation of the Company;
- (f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (g) the acquisition cost of any asset or service to the extent payable any time after 180 days following the acquisition or possession by the party liable where the advance or deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset or the construction of that asset;
- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount) other than those entered into in the ordinary course of the Company's business;
- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any item referred to in the above paragraphs.

**Financial Officer** means the chief financial officer, any vice president of finance, principal accounting officer, treasurer or controller of the Company.

**Guarantee** means the amended and restated guarantee dated on or about the date of this Agreement granted by the Guarantor in favour of the Administrative Agent for the benefit of the Lenders, as amended, restated, supplemented or otherwise modified from time to time.

**Guarantor** means Photronics, Inc.

**Holders of Secured Obligations** means the Facility Guarantee Secured Parties and the U.S. Facility Secured Parties (as defined in the U.S. Facility Agreement).

**Holding Company** of any other person means a company in respect of which that other person is a Subsidiary.

**Increased Cost** means:

- (a) an additional or increased cost;
- (b) a reduction in the rate of return from a Facility or on a Finance Party (or its Affiliate's) overall capital; or
- (c) a reduction of an amount due and payable under any Finance Document,

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which is incurred or suffered by a Finance Party or any of its Affiliates but only to the extent attributable to a Finance Party having entered into any Finance Document or funding or performing its obligations under any Finance Document.

**Lender** means:

- (a) the Replacement Lenders; or
- (b) any person which becomes a Party in accordance with Clause 24.2 (Assignments and transfers by Lenders).

**Interest Payment Date** means, as long as any part of the Loan is outstanding, each 20 March, 20 June, 20 September and 20 December provided that, if an Interest Payment Date does not fall on a Business Day, that Interest Payment Date will instead occur on the next Business Day and provided further that the last Interest Payment Date will be the Final Maturity Date.

**Loan** means, unless otherwise stated in this Agreement, the principal amount of each borrowing under this Agreement or the principal amount outstanding of that borrowing.

**Majority Lenders** means, at any time, Lenders:

- (a) whose share in the outstanding Loans and whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the aggregate of all the outstanding Loans and the undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated  $66\frac{2}{3}$  per cent. or more of the Total Commitments immediately before the reduction.

**Material Adverse Effect** means a material adverse effect on:

- (a) the business, assets, property or condition (financial or otherwise) of any Obligor;
- (b) the ability of any Obligor to perform its obligations under any Finance Document;
- (c) the validity or enforceability of any Finance Document; or
- (d) any right or remedy of a Finance Party in respect of a Finance Document.

**Maturity Date** means, in respect of a Revolving Credit Loan, the date specified by the Company in the Request of that Revolving Credit Loan, being a date falling no later than 12 months from the Utilisation Date of that Revolving Credit Loan and in any event not later than the Final Maturity Date.

**Obligor** means the Company or the Guarantor.

**Original Financial Statements** means the audited financial statements of the Company for the year ended December 31, 2006.

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**Party** means a party to this Agreement.

**PBOC** means the People's Bank of China.

**PBOC Base Rate** means, subject to Clause 8.1(b) (Calculation of interest), in relation to a Loan, the prevailing official lending rate per annum on the Utilisation Date of that Loan as promulgated and announced by PBOC for loans with a term comparable to that Loan.

**PBOC Misappropriation Rate** means the highest permitted rate promulgated by PBOC from time to time which may be applied on the interest rate on any Loan (or any part of it) which is not used in accordance with Clause 3 (Purpose), being 165 per cent. at the date of this Agreement.

**PBOC Penalty Rate** means the highest permitted rate promulgated by PBOC from time to time which may be applied on the interest rate on any overdue amount, being 135 per cent. at the date of this Agreement.

**Permitted Security Interest** means:

- (a) any Security Interest comprising a netting or set-off arrangement entered into by the Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (b) any Security Interest arising by operation of law or in the ordinary course of business of the Company;
- (c) any Security Interest entered into pursuant to a Finance Document or pursuant to the U.S. Credit Agreement and related finance documents;
- (d) any Security Interest securing indebtedness the amount of which (when aggregated with the amount of any other indebtedness of the Company which has the benefit of a Security Interest) does not exceed RMB80,000,000 or its equivalent at any time; and
- (e) any other Security Interest with the prior written consent of the Administrative Agent and the Majority Lenders.

**PRC** means the People's Republic of China.

**Pro Rata Share** means:

- (a) for the purpose of determining a Lender's share in a utilisation of a Facility, the proportion which its Commitment under that Facility bears to all the Commitments under that Facility; and
- (b) for any other purpose on a particular date:
  - (i) the proportion which a Lender's share of the Loans (if any) bears to all the Loans;
  - (ii) if there is no Loan outstanding on that date, the proportion which its Commitment bears to the Total Commitments on that date;
  - (iii) if the Total Commitments have been cancelled, the proportion which its Commitments bore to the Total Commitments immediately before being cancelled; or

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- (iv) when the term is used in relation to a Facility, the above proportions but applied only to the Loans and Commitments for that Facility.

For the purpose of sub-paragraph (iv) above, the Administrative Agent will determine, in the case of a dispute whether the term in any case relates to a particular Facility.

**Project** means the construction of a new manufacturing facility located at No. 23 Lot, IC Industry Area, Zhangjiang Hi-Tech Park, Shanghai, PRC and the installation of equipment by the Company.

**Repeating Representations** means at any time the representations and warranties which are then made or deemed to be repeated under Clause 14.20 (Times for making representations and warranties).

**Request** means a request for a Loan, substantially in the form of Schedule 3 (Form of Request).

**Revolving Credit Commitment** means:

- (a) for the Replacement Lenders, the amount of revolving credit commitment set opposite its name in Part 1 of Schedule 1 and the amount of any other Revolving Credit Commitment it acquires; and
  - (b) for any other Lender, the amount of any Revolving Credit Commitment it acquires,
- to the extent not cancelled, transferred or reduced under this Agreement.

**Revolving Credit Facility** means the revolving credit facility made available under this Agreement.

**Revolving Credit Loan** means a Loan under the Revolving Credit Facility and identified as such in its Request.

**RMB** means the lawful currency of the PRC.

**Rollover Loan** means one or more Revolving Credit Loans:

- (a) to be made on the same day that a maturing Revolving Credit Loan is due to be repaid;
- (b) the aggregate amount of which is equal to or less than the maturing Revolving Credit Loan; and
- (c) to be made for the purpose of refinancing a maturing Revolving Credit Loan.

**SAFE** means the State Administration of Foreign Exchange.

**Security Interest** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect, whether created pursuant to PRC law or any other applicable law.

**Subsidiary** means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

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**Tax Credit** means a credit against any Tax or any relief or remission for Tax (or its repayment).

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

**Tax Payment** means a payment made by the Company to a Finance Party in any way related to a Tax Deduction or under any indemnity given by the Company in respect of Tax under any Finance Document.

**Term Loan** means a Loan under the Term Loan Facility and identified as such in its Request.

**Term Loan Commitment** means RMB56,000,000 to the extent not cancelled, transferred or reduced under this Agreement.

**Term Loan Facility** means the term loan facility made available under this Agreement.

**Total Commitments** means the aggregate of the Commitments of all the Lenders.

**Total Term Loan Commitments** means the aggregate of the Term Loan Commitments of all the Lenders, being the total amount specified as such in Part 1 of Schedule 1 at the date of this Agreement.

**Total Revolving Credit Commitments** means RMB130,000,000, being the aggregate of the Revolving Credit Commitments of all the Lenders as described in Part 1 of Schedule 1 at the date of this Agreement.

**Transfer Certificate** means a certificate, substantially in the form of Schedule 5 (Form of Transfer Certificate), with such amendments as the Administrative Agent may approve or reasonably require or any other form agreed between the Administrative Agent and the Company.

**U.S. Credit Agreement** means the Credit Agreement dated as of June 6, 2007 by and among Photronics, Inc., the other borrowers and guarantors party thereto, JPMorgan Chase Bank, National Association, as the administrative agent and collateral agent, and the lenders party thereto.

**Utilisation Date** means each date on which a Facility is utilised.

## 1.2 Construction

(a) In this Agreement, unless the contrary intention appears, a reference to:

- (i) an **amendment** includes a supplement, novation, restatement or re-enactment and **amended** will be construed accordingly;
- (ii) **assets** includes present and future properties, revenues and rights of every description;
- (iii) an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- (iv) **control** means the power to direct the management and the policies of a person whether through the ownership of voting capital, by contract or otherwise;

- 
- (v) **disposal** means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
  - (vi) **including** is without limitation;
  - (vii) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money;
  - (viii) **know your customer requirements** are the identification checks that a Finance Party requests in order to meet its obligations under any applicable law or regulation to identify a person who is (or is to become) its customer;
  - (ix) a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
  - (x) A reference to an agreement (including this Agreement) is a reference to that agreement as amended, supplemented, restated or novated;
  - (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (xii) a currency is a reference to the lawful currency for the time being of the relevant country;
  - (xiii) a Default being **outstanding** means that it has not been remedied or waived;
  - (xiv) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;

- (xv) a Clause, a Subclause or a Schedule is a reference to a clause or subclause of, or a schedule to, this Agreement;
  - (xvi) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;
  - (xvii) a Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility; and
  - (xviii) a time of day is a reference to Shanghai time.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);

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- (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
  - (iii) notwithstanding sub-paragraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless the contrary intention appears:
- (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
  - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement; and
  - (iii) any obligation of an Obligor under the Finance Documents which is not a payment obligation remains in force for so long as any payment obligation of an Obligor is or may be outstanding under the Finance Documents.
- (d) The headings in this Agreement do not affect its interpretation.

## 2. FACILITIES

### 2.1 Term Loan Facility

- (a) Subject to the terms of the 2005 Loan Agreement, the predecessor to the Original Lender made available to the Company a term loan facility in an aggregate amount equal to RMB56,000,000.
- (b) The Company acknowledges that (i) the term loan facility has been fully funded and the principal balance of such term loan outstanding on the date hereof is RMB56,000,000, and (ii) all such term loans outstanding on the date hereof under the 2005 Loan Agreement shall be deemed to be the terms loans outstanding under this Agreement, subject to the terms of this Agreement.

### 2.2 Revolving Credit Facility

- (a) Subject to the terms of the 2005 Loan Agreement, the predecessor to the Original Lender made available to the Company a revolving credit facility in an aggregate amount equal to RMB130,000,000.
- (b) The Company acknowledges that (i) the revolving loan facility has been fully funded and the principal balance of such revolving loans outstanding on the date hereof is RMB130,000,000, and (ii) all such revolving loans outstanding on the date hereof under the 2005 Loan Agreement shall be deemed to be the revolving loans outstanding under this Agreement, subject to the terms of this Agreement.

### 2.3 Nature of a Finance Party's rights and obligations

Unless all the Finance Parties agree otherwise:

- (a) the obligations of a Finance Party under the Finance Documents are several;

- 
- (b) failure by a Finance Party to perform its obligations does not affect the obligations of any other person under the Finance Documents;
  - (c) no Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents;

- (d) the rights of a Finance Party under the Finance Documents are separate and independent rights;
- (e) a Finance Party may, except as otherwise stated in the Finance Documents, separately enforce those rights; and
- (f) a debt arising under the Finance Documents to a Finance Party is a separate and independent debt.

## **2.4 Assignment to Replacement Lenders**

- (a) The Original Lender hereby transfers by novation to the other Replacement Lenders such portion of the Original Lender's rights and obligations relating to the commitments and loans set forth in Part 1 of Schedule 1, plus all interest thereon accrued through the proposed transfer date, in accordance with the terms of this Agreement.
- (b) The proposed transfer date is August 31, 2007.
- (c) The administrative details of each Replacement Lender for the purposes of this Agreement are set out in Part 2 of Schedule 1.
- (d) Each such Replacement Lender expressly acknowledges the limitations on the Original Lenders' obligations in respect of the transfer in Clause 24.5 of this Agreement.
- (e) Each such Replacement Lender represents and warrants to the Original Lender that it is an Approved Lender.

## **3. PURPOSE**

### **3.1 Loans**

A portion of the Loans were used to repay a then existing RMB4,000,000 loan from the predecessor to the Original Lender. Thereafter, each Loan may only be used for working capital purposes and for costs of the Project.

### **3.2 No obligation to monitor**

No Finance Party is bound to monitor or verify the utilisation of a Facility.

## **4. CONDITIONS PRECEDENT**

### **4.1 Conditions precedent documents**

- (a) A Request may not be given until the Administrative Agent has notified the Company and the Lenders that it has received all of the documents and evidence set out in Schedule 2 (Conditions precedent documents) in form and substance satisfactory to the Administrative Agent.

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- (b) The Administrative Agent must give this notification to the Company and the Lenders promptly upon being so satisfied.

### **4.2 Further conditions precedent**

The obligations of each Lender to participate in any Loan are subject to the further conditions precedent that on both the date of the Request and the Utilisation Date for that Loan:

- (a) the Repeating Representations are correct in all material respects;
- (b) no Default or, in the case of a Rollover Loan, no Event of Default is outstanding or would result from the Loan; and
- (c) there has been no disruption of, or material adverse change in, the financial, banking or capital market conditions which would have an impact on the Lender's ability to make that Loan.

## **5. UTILISATION**

### **5.1 Giving of Requests**

- (a) The Company may borrow a Loan by giving to the Administrative Agent a duly completed Request.
- (b) Unless the Administrative Agent otherwise agrees, the latest time for receipt by the Administrative Agent of a duly completed Request is 11.00 a.m. three Business Days before the proposed Utilisation Date.
- (c) Each Request is irrevocable.

### **5.2 Completion of Requests**

A Request for a Loan will not be regarded as having been duly completed unless:

- (a) it identifies the Facility the Loan applies to;
- (b) the Utilisation Date is a Business Day falling within the Availability Period;
- (c) the amount of the Loan requested is:
  - (i) a minimum of RMB1,000,000 and an integral multiple of RMB100,000;
  - (ii) no more than the maximum undrawn amount available under the relevant Facility on the proposed Utilisation Date; or
  - (iii) such other amount as the Administrative Agent may agree; and
- (d) in respect of a Revolving Credit Loan, the proposed Maturity Date complies with this Agreement.

Only one Loan may be requested in a Request.

### **5.3 Advance of Loan**

- (a) The Administrative Agent must promptly notify each Lender of the details of the requested Loan and the amount of its share in that Loan.
- (b) The amount of each Lender's share of the requested Loan will be its Pro Rata Share on the proposed Utilisation Date.
- (c) No Lender is obliged to make a Loan if as a result:
  - (i) its share in the Loans under a Facility would exceed its Commitment for that Facility; or
  - (ii) the Loans would exceed the Total Commitments.
- (d) If the conditions set out in this Agreement have been met, each Lender must make its share in the requested Loan available to the Administrative Agent for the Company through its Facility Office on the Utilisation Date.

## **6. REPAYMENT**

### **6.1 Repayment of Term Loans**

The Company must repay the Term Loans in full on the Final Maturity Date.

### **6.2 Repayment of Revolving Credit Loans**

- (a) The Company must repay each Revolving Credit Loan in full on its Maturity Date.
- (b) Subject to the other terms of this Agreement, any amounts repaid under paragraph (a) above may be re-borrowed.
- (c) Subject to paragraph (a) above, the Company must repay the Revolving Credit Loans in full on the Final Maturity Date.

## **7. PREPAYMENT AND CANCELLATION**

### **7.1 Mandatory prepayment**

- (a) A Lender must notify the Administrative Agent and the Company promptly if:
  - (i) it becomes aware that it is unlawful in any applicable jurisdiction for that Lender to perform any of its obligations under a Finance Document or to fund or maintain any Loan; or
  - (ii) it determines that its ability to perform any of its obligations under a Finance Document or to fund or maintain any Loan is restricted or seriously affected as a result of:
    - (A) the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regular any change in law; or
    - (B) compliance with any law or regulation made after the date of this Agreement.



- (b) After notification under paragraph (a) above the Administrative Agent must notify the Company promptly that:
- (i) the Company must repay or prepay the share of that Lender in each Loan on the date specified by that Lender in the notification under paragraph (a) above; and
  - (ii) the Commitments of that Lender will be immediately cancelled.

## 7.2 Voluntary prepayment

- (a) The Company may, having obtained the prior written consent of the Administrative Agent and the Majority Lenders (such consent not to be unreasonably withheld) and any necessary authorisations from any relevant governmental authority under any applicable regulation, by giving not less than 10 Business Days' prior notice to the Administrative Agent, prepay any Loan at any time in whole or in part.
- (b) A prepayment of part of a Loan must be in a minimum amount of RMB1,000,000 and be no less than 50 per cent. of the Loan outstanding under the Term Loan Facility or the Revolving Credit Facility (as the case may be).

## 7.3 Automatic cancellation

The Commitments of each Lender will be automatically cancelled at the close of business on the last day of the relevant Availability Period.

## 7.4 Voluntary cancellation

- (a) The Company may, by giving not less than 15 Business Days' prior notice to the Administrative Agent, cancel the unutilised amount of the Total Commitments in whole or in part.
- (b) Partial cancellation of the Total Commitments must be in a minimum amount of RMB500,000 and an integral multiple of RMB100,000.
- (c) Any cancellation in part will be applied against the relevant Commitment of each Lender pro rata.

## 7.5 Right of repayment and cancellation of a single Lender

- (a) If the Company is, or will be, required to pay to a Lender:
- (i) a Tax Payment; or
  - (ii) an Increased Cost,

the Company may, while the requirement continues, give notice to the Administrative Agent requesting prepayment and cancellation in respect of that Lender.

- (b) After notification under paragraph (a) above:
- (i) the Company must repay or prepay that Lender's share in each Loan on the date specified in paragraph (c) below; and

- (c) the Commitments of that Lender will be immediately cancelled.
- (d) The date for repayment or prepayment of a Loan will be:
- (i) the next Interest Payment Date for that Loan; or
  - (ii) if earlier, the date specified by the Company in its notification.

## 7.6 Re-borrowing of Revolving Credit Loans

Any voluntary prepayment of a Revolving Credit Loan under Clause 7.2 (Voluntary prepayment) may be re-borrowed on the terms of this Agreement. Any other prepayment of a Revolving Credit Loan may not be re-borrowed.

## 7.7 Miscellaneous provisions

- (a) Any notice of prepayment and/or cancellation under this Agreement is irrevocable and must specify the relevant date(s) and the affected Loans and Commitments. The Administrative Agent must notify the Lenders promptly of receipt of any such notice.
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid. The Company must pay to the Lenders Break Costs

and any premium or penalty (as solely determined by the Lenders) in respect of any prepayment.

- (c) The Majority Lenders may agree a shorter notice period for a voluntary prepayment or a voluntary cancellation.
- (d) No prepayment or cancellation is allowed except in accordance with the express terms of this Agreement.
- (e) No amount of a Term Loan prepaid under this Agreement may subsequently be re-borrowed.
- (f) No amount of the Total Commitments cancelled under this Agreement may subsequently be reinstated.

## **8. INTEREST**

### **8.1 Calculation of interest**

- (a) The rate of interest on each Loan is the PBOC Base Rate.
- (b) If at any time before the Final Maturity Date there occurs an adjustment to the PBOC Base Rate or a change in the official method of calculation of the PBOC Base Rate, the new PBOC Base Rate will take effect on the next Interest Payment Date or as otherwise required under the relevant PRC regulations.

### **8.2 Payment of interest**

Except where it is provided to the contrary in this Agreement, the Company must pay interest on each Loan on each Interest Payment Date, which is accrued:

- (a) in the case of the first Interest Payment Date, from the period from the first Utilisation Date to that Interest Payment Date; and

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- (b) in any other case, from the period from the day after the preceding Interest Payment Date to that Interest Payment Date.

### **8.3 Interest on overdue or misappropriated amounts**

- (a) Subject to the other provisions on this Clause 8.3, if the Company fails to pay any amount payable by it under the Finance Documents, it must immediately on demand by the Administrative Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment, at the PBOC Base Rate multiplied by the PBOC Penalty Rate.
- (b) Subject to the other provisions on this Clause 8.3, if the Company does not use any Loan (or any part of it) in accordance with Clause 3 (Purpose), it must immediately on demand by the Administrative Agent pay interest on the misappropriated amount from the date of its misappropriation up to the date on which such misappropriation ceases, before, on and after judgment, at the PBOC Base Rate multiplied by the PBOC Misappropriation Rate.
- (c) If paragraphs (a) and (b) above both apply, interest is payable under this Clause by multiplying the PBOC Base Rate by the higher of the PBOC Penalty Rate and the PBOC Misappropriation Rate.
- (d) Interest on the unpaid interest will be compounded with the unpaid interest in accordance with the relevant PRC regulations. If, at the relevant time, the Lenders are entitled under law to determine their own basis on which such interest may be compounded, such interest will be compounded on each Interest Payment Date.
- (e) The Lenders' right to receive interest from the Company applying the PBOC Penalty Rate or the PBOC Misappropriate Rate will not affect the other rights of the Lenders under any other Finance Document or applicable law.
- (f) Notwithstanding any other provision of this Clause 8.3, if, at the relevant time, no PBOC Misappropriation Rate or the PBOC Penalty Rate is promulgated by PBOC or the Lenders become entitled under law to set their own default rate in these respects, the interest payable under paragraph (a) or (b) above (as the case may be) on the relevant amount will be determined by the Lenders to be:
  - (i) in the case of the Company's failure to pay any amount payable by it under the Finance Documents on the due date, one per cent. per annum above the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan; and
  - (ii) in the case of the Company's failure to use any amount in accordance with Clause 3 (Purpose), three per cent. per annum above the rate which would have been payable if the misappropriated amount had, during the period in which it was misappropriated, constituted a Loan,

and for this purpose, the Lenders may (acting reasonably with best effort and to the extent permitted by law) select the duration of the Loan.

### **8.4 Notification of rates of interest**

The Administrative Agent must promptly notify each relevant party of the determination of a rate of interest under this Agreement.

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## 8.5 No overrunning the Final Maturity Date

If an Interest Payment Date would otherwise overrun a Maturity Date or the Final Maturity Date, that Interest Payment Date will be shortened so that it falls on that Maturity Date or the Final Maturity Date.

## 9. MARKET DISRUPTION

### 9.1 Market disruption

(a) If the Administrative Agent determines that:

- (i) no PBOC Base Rate is available;
- (ii) funding in RMB in the required amount for that Loan is not available to any Lender; or
- (iii) funding in RMB in the required amount is not available to any Lender on terms that are adequately covered by the PBOC Base Rate,

the Administrative Agent must promptly notify the Company and the Lenders in writing.

(b) After notification under paragraph (a) above, the Company and the Administrative Agent must enter into negotiations for a period of not more than 30 days with a view to agreeing an alternative basis for determining the rate of interest and/or funding for the affected Loan.

(c) Any alternative basis agreed will be, with the prior consent of all the Lenders, binding on all the Parties.

(d) If the Parties fail to reach an agreement on an alternative basis for determining the rate of interest, the Company must prepay the relevant loan with all accrued interest and other amounts within 15 Business Days of receipt of the Administrative Agent's notice of prepayment.

## 10. TAXES

### 10.1 Tax gross-up

(a) The Company must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.

(b) If the Company or a Lender is aware that the Company must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Administrative Agent. The Administrative Agent must then promptly notify the affected Parties.

(c) If a Tax Deduction is required by law to be made by the Company, the amount of the payment due from the Company will be increased to the extent necessary to ensure that after making the Tax Deduction, each Lender receives and retains a net amount equal to the payment which it would have received and retained if no Tax Deduction had been required.

(d) If the Company is required to make a Tax Deduction, the Company must make the minimum Tax Deduction allowed by law and must make any payment required in connection with that Tax Deduction to the relevant tax authority within the time allowed by law.

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(e) Within 30 days of making either a Tax Deduction or a payment required by law in connection with a Tax Deduction, the Company must deliver to the Administrative Agent for the relevant Finance Party evidence satisfactory to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

### 10.2 Tax indemnity

(a) Except as provided below, the Company must indemnify a Finance Party against any loss or liability which the Finance Party (in its absolute discretion) determines will be or has been suffered (directly or indirectly) by that Finance Party for or on account of Tax in relation to a payment received or receivable (or any payment deemed to be received or receivable) under a Finance Document.

(b) Paragraph (a) above does not apply to any Tax assessed on a Finance Party under the laws of the jurisdiction in which:

- (i) That Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party has a Facility Office and treated as resident for tax purposes; or
- (ii) that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable by that Finance Party. However, any payment deemed to be received or receivable, including any amount treated as income but not actually received by the Finance Party, such as a Tax Deduction, will not be treated as net income received or receivable for this purpose.

(c) A Finance Party making, or intending to make, a claim under paragraph (a) above, must promptly notify the Company of the event which will give, or

has given, rise to the claim.

### **10.3 Tax Credit**

If the Company makes a Tax Payment and the relevant Finance Party (in its absolute discretion) determines that:

- (a) a Tax Credit is attributable to that Tax Payment; and
- (b) it has used and retained that Tax Credit,

the Finance Party must pay an amount to the Company which that Finance Party determines (in its absolute discretion) will leave it (after that payment) in the same after-tax position as it would have been if the Tax Payment had not been required to be made by the Company.

### **10.4 Stamp taxes**

The Company must pay and indemnify each Finance Party against any stamp duty, registration or other similar Tax payable in connection with the entry into, performance or enforcement of any Finance Document.

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### **10.5 Value added taxes**

- (a) Any amount payable under a Finance Document by the Company is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Company must pay to the Finance Party (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.
- (b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party must also at the same time pay and indemnify the Finance Party against all value added tax or any other Tax of a similar nature incurred by the Finance Party in respect of those costs or expenses but only to the extent that the Finance Party (acting reasonably) determines that it is not entitled to credit or repayment from the relevant tax authority in respect of the Tax.

## **11. INCREASED COSTS**

### **11.1 Increased Costs**

Except as provided below in this Clause, the Company must pay to a Finance Party the amount of any Increased Cost incurred by that Finance Party or any of its Affiliates as a result of:

- (a) the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or
- (b) compliance with any law or regulation made after the date of this Agreement.

### **11.2 Exceptions**

The Company need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another Clause or would have been but for an exception to that Clause; or
- (b) attributable to a Finance Party or its Affiliate wilfully failing to comply with any law or regulation.

### **11.3 Claims**

- (a) A Finance Party intending to make a claim for an Increased Cost must notify the Administrative Agent of the circumstances giving rise to and the amount of the claim, following which the Administrative Agent will promptly notify the Company.
- (b) Each Finance Party must, as soon as practicable after a demand by the Administrative Agent, provide a certificate confirming the amount of its Increased Cost.

## **12. MITIGATION**

### **12.1 Mitigation**

- (a) Each Finance Party must, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which result or would result in:

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- (i) any Tax Payment or Increased Cost being payable to that Finance Party; or

- (ii) that Finance Party being able to exercise any right of prepayment and/or cancellation under this Agreement by reason of any illegality, including transferring its rights and obligations under the Finance Documents to an Affiliate or changing its Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.
- (c) The Company must indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of any step taken by it under this Subclause.
- (d) A Finance Party is not obliged to take any step under this Subclause if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

## **12.2 Conduct of business by a Finance Party**

No term of any Finance Document will:

- (a) interfere with the right of any Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it in respect of Tax or the extent, order and manner of any claim other than those that would be claimed by a prudent business person in the ordinary course of business; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (Tax or otherwise) or any computation in respect of Tax.

## **13. PAYMENTS**

### **13.1 Place**

Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by a Party (other than the Administrative Agent) under the Finance Documents must be made to the Administrative Agent to its account at such office or bank as it may notify to that Party for this purpose by not less than five Business Days' prior notice.

### **13.2 Funds**

Payments under the Finance Documents to the Administrative Agent must be made for value on the due date before 11:00 a.m. Shanghai time and in such funds as the Administrative Agent may specify to the Party concerned as being customary at the time for the settlement of transactions in that currency in the place for payment.

### **13.3 Distribution**

- (a) Each payment received by the Administrative Agent under the Finance Documents for another Party must, except as provided below, be made available by the Administrative Agent to that Party by

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payment (as soon as practicable after receipt) to its account at such office or bank as it may notify to the Administrative Agent for this purpose by not less than five Business Days' prior notice.

- (b) The Administrative Agent may apply any amount received by it from or on behalf of an Obligor in or towards payment (as soon as practicable after receipt) of any amount due from that Obligor under the Finance Documents or in or towards the purchase of any amount of any currency to be so applied.
- (c) Where a sum is paid to the Administrative Agent under this Agreement for another Party, the Administrative Agent is not obliged to pay that sum to that Party until it has established that it has actually received it. However, the Administrative Agent may assume that the sum has been paid to it, and, in reliance on that assumption, make available to that Party a corresponding amount. If it transpires that the sum has not been received by the Administrative Agent, that Party must immediately on demand by the Administrative Agent refund any corresponding amount made available to it together with interest on that amount from the date of payment to the date of receipt by the Administrative Agent at a rate calculated by the Administrative Agent to reflect its cost of funds.

### **13.4 Currency**

- (a) Unless a Finance Document specifies that payments under it are to be made in a different manner, the currency of each amount payable under the Finance Documents is determined under this Clause.
- (b) Amounts payable in respect of Taxes, fees, costs and expenses are payable in the currency in which they are incurred.
- (c) Each other amount payable under the Finance Documents is payable in RMB.

### **13.5 No set-off or counterclaim**

All payments made by the Company under the Finance Documents must be calculated and made without (and free and clear of any deduction for) set-off or counterclaim.

### 13.6 Business Days

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not) or whatever day the Administrative Agent determines is market practice.
- (b) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

### 13.7 Partial payments

- (a) If the Administrative Agent receives a payment insufficient to discharge all the amounts then due and payable by the Obligors under the Finance Documents, the Administrative Agent must apply that payment towards the obligations of the Obligors under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Administrative Agent under the Finance Documents;

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- (ii) **secondly**, in or towards payment pro rata of any accrued interest (including, without limitation, any accrued default, penalty or compounded interest) or fee due but unpaid under this Agreement;
- (iii) **thirdly**, in or towards payment pro rata of any principal amount due but unpaid under this Agreement; and
- (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

- (b) The Administrative Agent must, if so directed by all the Lenders, vary the order set out in sub-paragraphs (a)(ii) to (iv) above.
- (c) This Subclause will override any appropriation made by an Obligor.

### 13.8 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three Business Days of written demand by the relevant Finance Party.

## 14. REPRESENTATIONS AND WARRANTIES

### 14.1 Representations and warranties

The representations and warranties set out in this Clause are made by the Company to the Lenders.

### 14.2 Status

- (a) The Company is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) The Guarantor is a corporation, duly incorporated, validly existing and in good standing under the laws of the State of Connecticut.
- (c) Each Obligor has the power to own its assets and carry on its business as it is being conducted.

### 14.3 Powers and authority

Each Obligor has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

### 14.4 Legal validity

- (a) Subject to any general principles of law limiting its obligations and referred to in any legal opinion required under this Agreement, each Finance Document to which an Obligor is a party is its legally binding, valid and enforceable obligation.
- (b) Each Finance Document to which an Obligor is a party is in the proper form for its enforcement in the jurisdiction of its incorporation.

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#### **14.5 Non-conflict**

The entry into and performance by each Obligor of, and the transactions contemplated by, the Finance Documents do not conflict with:

- (a) any law or regulation applicable to that Obligor;
- (b) the constitutional documents of that Obligor; or
- (c) to the knowledge of the Company, any material document which is binding upon that Obligor or any of its assets.

#### **14.6 No default**

- (a) No Default is outstanding or will result from the entry into of, or the performance of any transaction contemplated by, any Finance Document; and
- (b) no other event is outstanding which constitutes a default under any document which is binding on an Obligor or any of its assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect.

#### **14.7 Authorisations**

Except for the foreign debt registration with SAFE as a result of the performance of the Guarantee by the Guarantor, all authorisations required by an Obligor in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Finance Documents have been obtained or effected (as appropriate) and are in full force and effect.

#### **14.8 Financial statements**

The audited financial statements of the Company most recently delivered to the Administrative Agent (which, in the case of the Company at the date of this Agreement, are the Original Financial Statements):

- (a) have been prepared in accordance with accounting principles and practices generally accepted in the jurisdiction of incorporation of that Obligor, consistently applied; and
- (b) fairly represent financial condition (consolidated, if applicable) of that Obligor as at the date to which they were drawn up,

except, in each case, as disclosed to the contrary in those financial statements.

#### **14.9 Security Interests**

The Company's assets are not subject to any Security Interests other than Permitted Security Interests.

#### **14.10 No material adverse change**

There has been no material adverse change in the financial condition of the Company since the date to which the most recent audited financial statements delivered to the Lenders were drawn up.

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#### **14.11 Litigation**

To the best of the Company's knowledge and belief, no litigation, arbitration or administrative proceedings are current, pending, or threatened in writing, which have or, if adversely determined, are reasonably likely to have a Material Adverse Effect.

#### **14.12 Information**

- (a) All information supplied by the Company to the Lenders in connection with the Finance Documents is true and accurate in all material respects as at its date or (if appropriate) as at the date (if any) at which it is stated to be given; and
- (b) the Company has not omitted to supply any information which, if disclosed, might make the information supplied untrue or misleading in any material respect.

#### **14.13 No other business**

- (a) Except in connection with the Project and the business in the scope as provided in its business licence, it has not traded or carried on any business since the date of its incorporation; and
- (b) it does not have any Subsidiaries.

#### **14.14 Taxes on payments**

All amounts payable by an Obligor under the Finance Documents may be made without any Tax Deduction, except as otherwise required by any applicable law.

#### **14.15 Stamp duties**

Except for registration fees payable (if any) in respect of foreign debt under PRC law and stamp duty payable in respect of the execution of this Agreement, no stamp or registration duty or similar Tax or charge is payable in the PRC in respect of any Finance Document.

#### **14.16 Immunity**

- (a) The entry into by an Obligor of each Finance Document constitutes, and the exercise by such Obligor of its rights and performance of its obligations under each Finance Document will constitute, private and commercial acts performed for private and commercial purposes; and
- (b) no Obligor will be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

#### **14.17 No adverse consequences**

- (a) It is not necessary under the laws of its jurisdiction of incorporation:
  - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
  - (ii) by reason of the entry into of any Finance Document or the performance by it of its obligations under any Finance Document,

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that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in its jurisdiction of incorporation; and

- (b) no Finance Party is or will be deemed to be resident, domiciled or carrying on business in its jurisdiction of incorporation by reason only of the entry into, performance and/or enforcement of any Finance Document.

#### **14.18 Jurisdiction/governing law**

- (a) Its:
  - (i) agreement that this Agreement is governed by PRC law; and
  - (ii) agreement not to claim any immunity to which it or its assets may be entitled, are legal, valid and binding under the laws of its jurisdiction of incorporation.

#### **14.19 Difference of Total Investment and Registered Capital**

For the purpose of the foreign debt registration with SAFE arising from the performance of the Guarantee by the Guarantor, the total amount of (a) the aggregated long or medium-term loans borrowed by the Company as foreign debt, (b) the balance of its short-term foreign borrowings and (c) any foreign debt incurred by the Company as a result of the performance of guarantees provided by any offshore entity or individual, shall not be in excess of the difference of its total investment and registered capital.

#### **14.20 CBRC rules**

The Company is not related to any shareholder, director or employee of any Lender or Agent or to any other “connected party” as defined in the CBRC Rules.<sup>1</sup>

#### **14.21 Times for making representations and warranties**

- (a) The representations and warranties set out in this Clause are made by the Company on the date of this Agreement.
- (b) Unless a representation and warranty is expressed to be given at a specific date, each representation and warranty is deemed to be repeated by the Company on the date of each Request, each Utilisation Date and each Interest Payment Date.
- (c) When the representation and warranty in Clause 14.6(a) (No default) is repeated on a Request for a Rollover Loan or an Interest Payment Date for a Term Loan, the reference to a Default will be construed as a reference to an Event of Default.
- (d) When a representation and warranty is repeated, it is applied to the circumstances existing at the time of repetition.

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<sup>1</sup> Subject to local counsel review.



## 15. INFORMATION COVENANTS

### 15.1 Financial statements

- (a) The Company must supply to the Administrative Agent in sufficient copies for all the Lenders:
  - (i) its audited financial statements for each of its financial years; and
  - (ii) its interim financial statements for the first half-year of each of its financial years.
- (b) All financial statements must be supplied as soon as they are available and:
  - (i) in the case of the Company's audited financial statements, within 90 days;
  - (ii) in the case of the Company's interim financial statements, within 45 days, of the end of the relevant financial period.

### 15.2 Form of financial statements

- (a) The Company must ensure that each set of financial statements supplied under this Agreement gives (if audited) a true and fair view of, or (if unaudited) fairly represents, the financial condition (consolidated or otherwise) of the relevant person as at the date to which those financial statements were drawn up.
- (b) The Company must notify the Administrative Agent of any change to the manner in which its audited financial statements are prepared.
- (c) If requested by the Administrative Agent, the Company must supply to the Administrative Agent:
  - (i) a full description of any change notified under paragraph (b) above; and
  - (ii) sufficient information to enable the Finance Parties to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and its most recent audited financial statements delivered to the Administrative Agent under this Agreement.
- (d) If requested by the Administrative Agent, the Company must enter into discussions for a period of not more than 30 days with a view to agreeing any amendments required to be made to this Agreement to place the Company and the Lenders in the same position as they would have been in if the change notified under paragraph (b) above had not happened. Any agreement between the Company and the Administrative Agent will be, with the prior consent of the Majority Lenders, binding on all the Parties.
- (e) If no agreement is reached under paragraph (d) above on the required amendments to this Agreement, the Company must ensure that its auditors certify those amendments; the certificate of the auditors will be, in the absence of manifest error, binding on all the Parties.

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### 15.3 Information – miscellaneous

The Company must supply to the Administrative Agent:

- (a) a Compliance Certificate with each set of its financial statements sent to the Administrative Agent under this Agreement.
- (b) copies of all documents despatched by the Company to its creditors generally or any class of them at the same time as they are despatched;
- (c) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, threatened in writing or pending and which have or might, if adversely determined, have a Material Adverse Effect;
- (d) promptly on request, such further information regarding the financial condition and operations of the Company as any Finance Party through the Administrative Agent may reasonably request; and
- (e) promptly upon becoming aware of it, a notice that it is related to a shareholder, director or employee of a Lender or Agent or to any other “connected party” as defined in the CBRC Rule.<sup>2</sup>

### 15.4 Notification of Default

- (a) Unless the Administrative Agent has already been so notified by the Company, each Obligor must notify the Administrative Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly on request by the Administrative Agent, the Company must supply to the Administrative Agent a certificate, signed by two of its authorised signatories on its behalf, certifying that no Default is outstanding or, if a Default is outstanding, specifying the Default and the steps, if any, being taken to remedy it.

## 15.5 Know your customer requirements

- (a) The Company must promptly on the request of any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Lender) to enable a Finance Party or prospective new Lender to carry out and be satisfied with the results of all applicable know your customer requirements.
- (b) Each Lender must promptly on the request of the Administrative Agent supply to the Administrative Agent any documentation or other evidence which is reasonably required by the Administrative Agent to carry out and be satisfied with the results of all know your customer requirements.

## 16. GENERAL COVENANTS

### 16.1 General

The Company agrees to be bound by the covenants set out in this Clause.

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<sup>2</sup> Subject to local counsel review.

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### 16.2 Authorisations

The Company must promptly:

- (a) obtain, maintain and comply with the terms; and
- (b) supply certified copies to the Administrative Agent,

of any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, any Finance Document.

### 16.3 Compliance with laws

The Company must comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### 16.4 Pari passu ranking

The Company must ensure that its payment obligations under the Finance Documents at all times rank at least pari passu with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

### 16.5 Negative pledge

- (a) Other than Permitted Security Interests, the Company may not create or allow to exist any Security Interest on any of its assets.
- (b) Other than Permitted Security Interests, the Company may not:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms where it is or may be leased to or re-acquired or acquired by it or any of its related entities;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

### 16.6 Disposals

- (a) Except as provided below, the Company may not, either in a single transaction or in a series of transactions and whether related or not, dispose of all or any part of its assets.
- (b) Paragraph (a) does not apply to any disposal:
  - (i) made in the ordinary course of trading of the disposing entity; or

(ii) of assets in exchange for other assets comparable or superior as to type, value and quality.

#### 16.7 Financial Indebtedness

- (a) Except as provided below, the Company may not incur any Financial Indebtedness.
- (b) Paragraph (a) does not apply to:
- (i) any Financial Indebtedness incurred in the ordinary course of business not exceeding an aggregate of US\$1,000,000 or its equivalent;
  - (ii) any Financial Indebtedness incurred under the Finance Documents;
  - (iii) any Financial Indebtedness incurred or permitted under the U.S. Credit Agreement and the related finance documents;
  - (iv) any Financial Indebtedness of any person acquired by the Company which is incurred under arrangements in existence at the date of acquisition, but only for a period of six months from the date of acquisition; or
  - (v) any derivative transaction protecting against or benefiting from fluctuations in any rate or price entered into in the ordinary course of business.

#### 16.8 Year end

The Company must not change its financial year end without the consent of the Majority Lenders.

#### 16.9 Change of business

The Company must not carry on any business other than the Project and ensure that no substantial change is made to the general nature of its business from that carried on, or anticipated, at the date of this Agreement.

#### 16.10 Mergers

The Company must not enter into any amalgamation, demerger, merger or reconstruction other than pursuant to a transaction agreed by the Majority Lenders.

#### 16.11 Acquisitions

- (a) Except as provided below, the Company must not make any acquisition or investment.
- (b) Paragraph (a) does not apply to acquisitions or investments made in the ordinary course of trade or with the consent of the Majority Lenders.

#### 16.12 Environmental matters

- (a) In this Subclause:

**Environmental Approval** means any authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any the Company conducted on or from properties owned or used by the Company;

**Environmental Claim** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law; and

**Environmental Law** means any applicable law or regulation which relates to:

- (i) the pollution or protection of the environment;
  - (ii) the harm to or the protection of human health;
  - (iii) the conditions of the workplace; or
  - (iv) any emission or substance capable of causing harm to any living organism or the environment.
- (b) The Company must ensure that it is, and has been, in compliance with all Environmental Law and Environmental Approvals applicable to it, where failure to do so has or is reasonably likely to have a Material Adverse Effect or result in any liability for a Finance Party.
- (c) The Company must, promptly upon becoming aware, notify the a Finance Party of:

(i) any Environmental Claim current, or to its knowledge, pending, or threatened in writing; or

(ii) any circumstances reasonably likely to result in an Environmental Claim,

which has or, if substantiated, is reasonably likely to either have a Material Adverse Effect or result in any liability for a Finance Party.

### **16.13 Insurance**

The Company must insure its business and assets with insurance companies to such an extent and against such risks as companies engaged in a similar business normally insure.

## **17. DEFAULT**

### **17.1 Events of Default**

Each of the events or circumstances set out in this Clause is an Event of Default.

### **17.2 Non-payment**

An Obligor does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents, unless the non-payment:

(a) is caused by technical or administrative error; and

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(b) is remedied within five Business Days of the due date.

### **17.3 Breach of other obligations**

(a) An Obligor does not comply with any term of Clause 16 (General covenants) or clause 7 (General covenants) of the Guarantee; or

(b) an Obligor does not comply with any other term of the Finance Documents not already referred to in this Clause, unless the non-compliance:

(i) is capable of remedy; and

(ii) is remedied within 14 days of the earlier of the Administrative Agent giving notice of the breach to the Company and any Obligor becoming aware of the non-compliance.

### **17.4 Misrepresentation**

A representation or warranty made or repeated by an Obligor in any Finance Document or in any document delivered by or on behalf of any Obligor under any Finance Document is incorrect or misleading in any material respect when made or deemed to be repeated.

### **17.5 Cross-default**

Any of the following occurs in respect of an Obligor:

(a) any of its Financial Indebtedness (including, without limitation, the Financial Indebtedness arising under the U.S. Credit Agreement) is not paid when due (after the expiry of any originally applicable grace period);

(b) any of its Financial Indebtedness (including, without limitation, the Financial Indebtedness arising under the U.S. Credit Agreement):

(i) becomes prematurely due and payable;

(ii) is placed on demand; or

(iii) is capable of being declared by or on behalf of a creditor to be prematurely due and payable or of being placed on demand,

in each case, as a result of an event of default or any provision having a similar effect (howsoever described) and, in the case of sub-paragraph (iii) above, such event is not remedied within five Business Days of the relevant Obligor becoming aware of such event; or

(c) any commitment for its Financial Indebtedness (including, without limitation, the Financial Indebtedness arising under the U.S. Credit Agreement) is cancelled or suspended as a result of an event of default or any provision having a similar effect (howsoever described) and such event is not remedied within five Business Days of the relevant Obligor becoming aware of such event,

unless the aggregate amount of Financial Indebtedness falling within all or any of paragraphs (a) to (c) above in respect of that Obligor is:

- (i) in the case of the Borrower, less than RMB1,000,000 or its equivalent; and
- (ii) in the case of the Guarantor, less than RMB5,000,000 or its equivalent.

## 17.6 Insolvency

Any of the following occurs in respect of an Obligor:

- (a) it is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due or insolvent;
- (b) it admits its inability to pay its debts as they fall due;
- (c) it suspends making payments on any of its debts or announces an intention to do so;
- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling or restructuring of any of its indebtedness; or
- (e) a moratorium is declared in respect of any of its indebtedness.

If a moratorium occurs in respect of any Obligor, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

## 17.7 Insolvency proceedings

- (a) Except as provided below, any of the following occurs in respect of an Obligor:
  - (i) any step is taken with a view to a moratorium or a composition, assignment or similar arrangement with any of its creditors;
  - (ii) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or to file documents with a court or any registrar for, its winding-up, administration or dissolution or any such resolution is passed;
  - (iii) any person presents a petition, or files documents with a court or any registrar, for its winding-up, administration or dissolution;
  - (iv) any Security Interest is enforced over any of its assets;
  - (v) an order for its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) is made;
  - (vi) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets;
  - (vii) its shareholders, directors or other officers request the appointment of, or give notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or
  - (viii) any other analogous step or procedure is taken in any jurisdiction.

- (b) Paragraph (a) above does not apply to a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within 14 days.

## 17.8 United States Bankruptcy Laws

- (a) In this Subclause, **U.S. Bankruptcy Law** means the United States Bankruptcy Code 1978 or any other United States Federal or State bankruptcy, insolvency or similar law.
- (b) Any of the following occurs in respect of the Guarantor:
  - (i) it makes a general assignment for the benefit of creditors;
  - (ii) it commences a voluntary case or proceeding under any U.S. Bankruptcy Law;
  - (iii) an involuntary case under any U.S. Bankruptcy Law is commenced against it and is not controverted within 30 days or is not dismissed or stayed within 60 days after commencement of the case; or

(iv) an order for relief or other order approving any case or proceeding is entered under any U.S. Bankruptcy Law.

#### **17.9 Creditors' process**

Any attachment, sequestration, distress, execution or analogous event affects any asset(s) of an Obligor, having an aggregate value of at least RMB1,000,000, and is not discharged within 14 days.

#### **17.10 Cessation of business**

An Obligor ceases, or threatens to cease, to carry on business.

#### **17.11 Effectiveness of Finance Documents**

- (a) It is or becomes unlawful for any Obligor to perform any of its obligations under the Finance Documents.
- (b) Any Finance Document is not effective in accordance with its terms or is alleged by an Obligor to be ineffective in accordance with its terms for any reason.
- (c) An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

#### **17.12 Ownership and Change in Control**

- (a) The Company is not or ceases to be a Subsidiary of the Guarantor.
- (b) A Change in Control occurs.

#### **17.13 Material adverse change**

Any event or series of events occurs which, in the opinion of the Majority Lenders, has or is reasonably likely to have a Material Adverse Effect.

#### **17.14 Acceleration**

- (a) If an Event of Default described in Clause 17.8 (United States Bankruptcy Laws) occurs, the Total Commitments will, if not already cancelled under this Agreement, be immediately and automatically cancelled and all amounts outstanding under the Finance Documents will be immediately and automatically due and payable.
- (b) Subject to paragraph (a) above, if an Event of Default is outstanding, the Administrative Agent may, and must if so instructed by the Majority Lenders, by notice to the Company:
  - (i) cancel all or any part of the Total Commitments; and/or
  - (ii) declare that all or part of any amounts outstanding under the Finance Documents are:
    - (A) immediately due and payable; and/or
    - (B) payable on demand by the Administrative Agent acting on the instructions of the Majority Lenders.

Any notice given under this Subclause will take effect in accordance with its terms.

### **18. THE ADMINISTRATIVE AGENT AND THE COLLATERAL AGENT**

#### **18.1 Appointment and duties of the Administrative Agent and the Collateral Agent**

- (a) Each Finance Party (other than the Agents) irrevocably appoints JPMorgan Chase Bank (China) Company Limited, Shanghai Branch as Administrative Agent, and JPMorgan Chase Bank, National Association as Collateral Agent, under and in connection with the Finance Documents. Without limiting the foregoing, each Lender authorizes each of the Agents to enter into the Intercreditor Agreement on behalf of such Lender and agrees to be bound by the terms of the Intercreditor Agreement as if it were a party thereto.
- (b) Each Finance Party irrevocably authorises each Agent to:
  - (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and
  - (ii) enter into and deliver each Finance Document expressed to be entered into by each Agent.
- (c) Each Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

## **18.2 No fiduciary duties**

- (a) Nothing in the Finance Documents makes an Agent a trustee or fiduciary for any other Party or any other person; and
- (b) No Agent needs hold in trust any moneys paid to it or recovered by it for a Party in connection with the Finance Documents or be liable to account for interest on those moneys.

## **18.3 Individual position of each Agent**

- (a) If it is also a Lender, an Agent has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not an Agent.
- (b) Each Agent may:
  - (i) carry on any business with an Obligor or its related entities (including acting as an agent or a trustee for any other financing); and
  - (ii) retain any profits or remuneration it receives under the Finance Documents or in relation to any other business it carries on with an Obligor or its related entities.

## **18.4 Reliance**

Each Agent may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (c) assume, unless the context otherwise requires, that any communication made by an Obligor is made on behalf of and with the consent and knowledge of each Obligor;
- (d) engage, pay for and rely on professional advisers selected by it (including those representing a Party other than such Agent); and
- (e) act under the Finance Documents through its personnel and agents.

## **18.5 Majority Lenders' instructions**

- (a) Each Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Lenders will be binding on all the Lenders. In the absence of instructions, each Agent may act as it considers to be in the best interests of all the Lenders.
- (b) Each Agent may assume that unless it has received notice to the contrary, any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.
- (c) Each Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions.
- (d) No Agent is authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings in connection with any Finance Document.

## **18.6 Responsibility**

- (a) No Agent is responsible for the adequacy, accuracy or completeness of any statement or information (whether written or oral) made in or supplied in connection with any Finance Document.
- (b) No Agent is responsible for the legality, validity, effectiveness, adequacy, completeness or enforceability of any Finance Document or any other document.
- (c) Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms that it:

- (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets); and
- (ii) has not relied exclusively on any information provided to it by either Agent in connection with any Finance Document or agreement entered into in anticipation of or in connection with any Finance Document.

### **18.7 Exclusion of liability**

- (a) No Agent is liable or responsible to any other Finance Party for any action taken or not taken by it in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than an Agent) may take any proceedings against any officers, employees or agents of such Agent in respect of any claim it might have against such Agent or in respect of any act or omission of any kind by that officer, employee or agent in connection with any Finance Document. Any officer, employee or agent of either Agent may rely on this Subclause.
- (c) No Agent is liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by each Agent if each Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by each Agent for that purpose.
- (d)
  - (i) Nothing in this Agreement will oblige either Agent to satisfy any know your customer requirement in relation to the identity of any person on behalf of any Finance Party.
  - (ii) Each Finance Party confirms to each Agent that it is solely responsible for any know your customer requirements it is required to carry out and that it may not rely on any statement in relation to those requirements made by any other person.

### **18.8 Default**

No Agent is obliged to monitor or enquire whether a Default has occurred. No Agent is deemed to have knowledge of the occurrence of a Default.

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### **18.9 Information**

- (a) Except where a Finance Document specifically provides otherwise, no Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (b) No Agent has any duty:
  - (i) either initially or on a continuing basis to provide any Lender with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of any Obligor or its related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
  - (ii) unless specifically requested to do so by a Lender in accordance with a Finance Document, to request any certificate or other document from any Obligor.
- (c) In acting as an Agent, each Agent will be regarded as acting through its agency division which will be treated as a separate entity from its other divisions and departments. Any information acquired by an Agent which, in its opinion, is acquired by another division or department or otherwise than in its capacity as an Agent may be treated as confidential by such Agent and will not be treated as information possessed by the Agent in its capacity as such.
- (d) No Agent is obliged to disclose to any person any confidential information supplied to it by or on behalf of a member of the Group for the purpose of evaluating whether any waiver or amendment is required in respect of any term of the Finance Documents.
- (e) Each Obligor irrevocably authorises each Agent to disclose to the other Finance Parties any information which, in its opinion, is received by it in its capacity as an Agent.

### **18.10 Indemnities**

- (a) Without limiting the liability of any Obligor under the Finance Documents, each Lender must indemnify each Agent for that Lender's Pro Rata Share of any loss or liability incurred by each Agent in acting as an Agent (unless such Agent has been reimbursed by an Obligor under a Finance Document), except to the extent that the loss or liability is caused by such Agent's gross negligence or wilful misconduct.
- (b) If a Party owes an amount to an Agent under the Finance Documents, such Agent may, after giving notice to that Party:
  - (i) deduct from any amount received by it for that Party any amount due to that Agent from that Party under a Finance Document but unpaid; and
  - (ii) apply that amount in or towards satisfaction of the owed amount.



That Party will be regarded as having received the amount so deducted.

#### **18.11 Compliance**

Each Agent may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person,

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and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

#### **18.12 Resignation of the Agents**

- (a) The Administrative Agent may resign and appoint any of its Affiliates as successor Administrative Agent by giving notice to the other Finance Parties and the Company.
- (b) Alternatively, the Administrative Agent may resign by giving notice to the Finance Parties and the Company, in which case the Majority Lenders may appoint a successor Administrative Agent.
- (c) If no successor Administrative Agent has been appointed under paragraph (b) above within 30 days after notice of resignation was given, the Administrative Agent may appoint a successor Administrative Agent.
- (d) The person(s) appointing a successor Administrative Agent must, if practicable, consult with the Company prior to the appointment.
- (e) The resignation of the Administrative Agent and the appointment of any successor Administrative Agent will both become effective only when the successor Administrative Agent notifies all the Parties that it accepts its appointment.

On giving the notification the successor Administrative Agent will succeed to the position of the Administrative Agent and the term **Administrative Agent** will mean the successor Administrative Agent.

- (f) The retiring Administrative Agent must, at its own cost:
  - (i) make available to the successor Administrative Agent those documents and records and provide any assistance as the successor Administrative Agent may reasonably request for the purposes of performing its functions as the Administrative Agent under the Finance Documents; and
  - (ii) enter into and deliver to the successor Administrative Agent those documents and effect any registrations as may be required for the transfer or assignment of all of its rights and benefits under the Finance Documents to the successor Administrative Agent.
- (g) Upon its resignation becoming effective, this Clause will continue to benefit the retiring Administrative Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it was the Administrative Agent, and, subject to paragraph (f) above, it will have no further obligations under any Finance Document.
- (h) The Collateral Agent may resign and a successor collateral agent may be appointed in accordance with the terms of the Intercreditor Agreement.

#### **18.13 Relationship with Lenders**

- (a) The Administrative Agent may treat each Lender as a Lender, entitled to payments under this Agreement and as acting through its Facility Office(s) until it has received not less than five Business Days' prior notice from that Lender to the contrary.

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- (b) The Administrative Agent may at any time, and must if requested to do so by the Majority Lenders, convene a meeting of the Lenders.
  - (c) The Administrative Agent must keep a record of all the Parties and supply any other Party with a copy of the record on request. The record will include each Lender's Facility Office(s) and contact details for the purposes of this Agreement.

#### **18.14 The Agents' management time**

If an Agent requires, any amount payable to such Agent by any Party under any indemnity or in respect of any costs or expenses incurred by such Agent under the Finance Documents after the date of this Agreement may include the cost of using its management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as such Agent may notify to the relevant Party. This is in addition to any amount in respect of fees or expenses paid or payable to such Agent under any other term of the Finance Documents.

#### **18.15 Notice period**

Where this Agreement specifies a minimum period of notice to be given to each Agent, each Agent may, at its discretion, accept a shorter notice period.

### **19. EVIDENCE AND CALCULATIONS**

## 19.1 Accounts

Accounts maintained by a Finance Party in connection with this Agreement are prima facie evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

## 19.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 19.3 Calculations

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days.

## 20. ADMINISTRATIVE AGENT'S FEES

### 20.1 Administrative Agent's fee

The Company must pay to the Administrative Agent for its own account an agency fee in the amount and manner agreed in the Fee Letter between the Administrative Agent and the Company.

## 21. INDEMNITIES, BREAK COSTS AND DAMAGE WAIVERS

### 21.1 Currency indemnity

- (a) The Company must, as an independent obligation, indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:

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(i) That Finance Party receiving an amount in respect of an Obligor's liability under the Finance Documents; or

(ii) that liability being converted into a claim, proof, judgment or order,

in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.

- (b) Unless otherwise required by law, the Company waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

### 21.2 Other indemnities

- (a) The Company must indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:

(i) the occurrence of any Event of Default;

(ii) any failure by an Obligor to pay any amount due under a Finance Document on its due date; including any resulting from any distribution or redistribution of any amount among the Lenders under this Agreement;

(iii) (other than by reason of negligence or default by that Finance Party) a Loan not being made after a Request has been delivered for that Loan;

(iv) a Loan (or part of a Loan) not being prepaid in accordance with this Agreement;

(v) investigating any event which the Lenders reasonably believe to be a Default; or

(vi) acting or relying on any notice which the Lenders reasonably believe to be genuine, correct and appropriately authorised.

The Company's liability in each case includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document or any Loan.

- (b) The Company must indemnify the Administrative Agent against any loss or liability incurred by the Administrative Agent as a result of:

(i) investigating any event which the Administrative Agent reasonably believes to be a Default; or

(ii) acting or relying on any notice which the Administrative Agent reasonably believes to be genuine, correct and appropriately authorised.

### 21.3 Break Costs

- (a) The Company must pay to each Lender its Break Costs if a Loan or an overdue amount is repaid or prepaid otherwise than on an Interest Payment Date.

- (b) Break Costs are the amount (if any) determined by the relevant Lender which would indemnify that Lender against any loss or liability that it incurs as a consequence of any part of a Loan or overdue

amount being so repaid or prepaid on a date other than an Interest Payment Date, and includes any costs incurred as a result of that Lender terminating all or any part of its fixed rate, swap or other hedging arrangements.

- (c) Each Lender must supply to the Administrative Agent for the Company details of the amount of any Break Costs claimed by it under this Subclause.

#### **21.4 Damage Waivers**

To the extent permitted by applicable law, the Borrower shall not assert, and the Borrower hereby waives, any claim against any Finance Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Finance Document, or any other agreement, instrument or transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof.

### **22. EXPENSES**

#### **22.1 Initial costs**

The Company or the Guarantor, as the case may be, must pay to the Administrative Agent and the Collateral Agent the amount of all costs and expenses (including legal fees and translation costs) reasonably incurred by it in connection with the negotiation, preparation, printing, and syndication and execution of the Finance Documents.

#### **22.2 Subsequent costs**

The Company or the Guarantor, as the case may be, must pay to the Administrative Agent the amount of all costs and expenses (including legal fees and translation costs) reasonably incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Finance Document executed after the date of this Agreement; and
- (b) any amendment, waiver or consent requested by or on behalf of an Obligor or specifically allowed by a Finance Document.

#### **22.3 Enforcement costs**

The Company or the Guarantor, as the case may be, must pay to each Finance Party the amount of all costs and expenses (including legal fees and translation costs) incurred by it in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

### **23. AMENDMENTS AND WAIVERS**

#### **23.1 Procedure**

- (a) Except as provided in this Clause, any term of the Finance Documents may be amended or waived with the agreement of the Company and the Majority Lenders. The Administrative Agent or the Collateral Agent, as applicable, may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.

- (b) The Administrative Agent or the Collateral Agent, as applicable, must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.

- (c) The Guarantor agrees to any amendment or waiver allowed by this Clause which is agreed to by the Company. This includes any amendment or waiver which would, but for this paragraph, require the consent of the Guarantor if the guarantee under the Finance Documents is to remain in full force and effect.

#### **23.2 Exceptions**

- (a) An amendment or waiver which relates to:

- (i) the definition of Majority Lenders in Clause 1.1 (Definitions);
- (ii) an extension of the date of payment of any amount to a Lender under the Finance Documents;
- (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fee or other amount payable to a Lender under the Finance Documents;
- (iv) an increase in, or an extension of, a Commitment or the Total Commitments;

- (v) a release of an Obligor other than in accordance with the terms of this Agreement; a term of a Finance Document which expressly requires the consent of each Lender;
- (vi) the right of a Lender to assign or transfer its rights or obligations under the Finance Documents; or
- (vii) this Clause,

may only be made with the consent of each Lender directly affected thereby.

- (b) An amendment or waiver which relates to the rights or obligations of the Administrative Agent may only be made with the consent of the Administrative Agent.

### 23.3 Change of currency

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Administrative Agent (acting reasonably and after consultation with the Company) determines is necessary to reflect the change.

### 23.4 Waivers and remedies cumulative

The rights of each Finance Party under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

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Delay in exercising or non-exercise of any right is not a waiver of that right.

## 24. CHANGES TO THE PARTIES

### 24.1 Assignments and transfers by the Company

The Company may not assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of the Administrative Agent and the Majority Lenders.

### 24.2 Assignments and transfers by a Lender

- (a) Subject to the following provisions of this Clause, a Lender (the **Existing Lender**) may at any time:
  - (i) assign any of its rights; or
  - (ii) transfer by way of novation any of its rights or obligations under this Agreement, to any other bank or financial institution which is an Approved Lender (the **New Lender**).
- (b)
  - (i) Any Lender may, without the consent of the Company or the Administrative Agent, sell sub-participations to one or more banks or other entities (a **Sub-Participant**) in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Company, the Administrative Agent, and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a sub-participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Sub-Participant, agree to any amendment, modification or waiver described in Clause 23.2 (Exceptions) that affects such Sub-Participant. Subject to paragraph (b)(ii) of this Clause, the Company agrees that each Sub-Participant shall be entitled to the benefits of Clause 10 (Taxes) and 11 (Increased Costs) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Clause 24.2 (Assignments and transfers by a Lender). To the extent permitted by law, each Sub-Participant also shall be entitled to the benefits of Clause 26 (Set-off) as though it were a Lender, provided such Sub-Participant agrees to be subject to Clause 13 (Payments) as though it were a Lender.
  - (ii) A Sub-Participant shall not be entitled to receive any greater payment under Clause 10 (Taxes) or Clause 11 (Increased Costs) than the applicable Lender would have been entitled to receive with respect to the sub-participation sold to such Sub-Participant, unless the sale of the sub-participation to such Sub-Participant is made with the Company's prior written consent.

### 24.3 Conditions to assignment or transfer - consents

The consent of the Company is required for any assignment or transfer unless the New Lender is another Lender or an Affiliate of a Lender or any group members of a Lender that are more than 50% owned or controlled by that Lender's group and any sub-braches of a Lender or an Event of Default is

The consent of the Company (if required) must not be unreasonably withheld or delayed. The Company will be deemed to have given its consent five Business Days after the Company is given notice of the request unless it is expressly refused by the Company within that time. The acknowledgement of the Administrative Agent is required for each assignment or transfer.

#### 24.4 Reconstitution, absorption or conversion of a Finance Party

Notwithstanding any other terms in this Agreement, if any Finance Party (the **Converting Party**) undergoes reconstitution, absorption or conversion of any form pursuant to the People's Republic of China Regulations on Administration of Foreign Funded Banks (State Council Decree No. 478), the other Finance Parties and the Company agree that the Converting Party may assign or transfer any of its rights and/or obligations under this Agreement to the reconstituted, surviving or new entity by giving a notice of the assignment or transfer to the other Finance Parties and/or the Company. The parties hereto agree that such notice of assignment or transfer may be in the form of a public announcement in the national newspapers and/or the provincial newspapers where the Converting Party is located, or any other forms to the extent permitted by law and at the sole discretion of the Converting Party and no consent or approval from the other Finance Parties or the Company is required for such assignment or transfer. In the case of the Administrative Agent as the Converting Party, the reconstituted, surviving or new entity shall be deemed as successor Administrative Agent pursuant to Clause 18.12 (a) hereof. This Agreement will continue to be effective against the other Finance Parties and the Company, and the other Finance Parties and the Company agree to be bound and continue to be bound by this Agreement notwithstanding such assignment or transfer.

#### 24.5 Other conditions to assignment or transfer

- (a) Unless the Company and the Administrative Agent otherwise agree, a transfer of part of a Commitment or part of its rights and obligations under this Agreement by the Existing Lender must be in a minimum amount of RMB10 million.
- (b) The Administrative Agent is not obliged to enter into a Transfer Certificate or otherwise give effect to an assignment or transfer until it has completed all know your customer requirements to its satisfaction. The Administrative Agent must promptly notify the Existing Lender and the New Lender if there are any such requirements.
- (c) If the consent of the Company is required for any assignment or transfer (irrespective of whether it may be unreasonably withheld or not), the Administrative Agent is not obliged to enter into a Transfer Certificate if the Company withholds its consent.
- (d) Unless the Administrative Agent otherwise agrees, the New Lender must pay to the Administrative Agent for its own account, on or before the date any assignment or transfer occurs, a fee of RMB15,000.
- (e) Any reference in this Agreement to a Lender includes a New Lender but excludes a Lender if no amount is or may be owed to or by it under this Agreement.

#### 24.6 Procedure for assignment of rights

An assignment of rights will only be effective on receipt by the Administrative Agent of written confirmation from the New Lender (in form and substance satisfactory to the Administrative Agent) that the New Lender will, in relation to the assigned rights, assume obligations to the other Finance Parties equivalent to those it would have been under if it had been the Existing Lender.

- (a) In this Subclause:

**Transfer Date** means, in relation to a transfer, the later of:

- (i) the proposed Transfer Date specified in that Transfer Certificate; and
  - (ii) the date on which the Administrative Agent executes that Transfer Certificate.
- (b) A transfer of rights or obligations using a Transfer Certificate will be effective if:
    - (i) the Existing Lender and the New Lender deliver to the Administrative Agent a duly completed Transfer Certificate; and
    - (ii) the Administrative Agent enters into it.
  - (c) On the Transfer Date:
    - (i) the New Lender will assume the rights and obligations of the Existing Lender expressed to be the subject of the novation in the Transfer Certificate in substitution for the Existing Lender;
    - (ii) the Existing Lender will be released from those obligations and cease to have those rights; and
    - (iii) the New Lender will become a Lender under this Agreement and be bound by the terms of this Agreement as Lender.

- (d) The Administrative Agent must enter into a Transfer Certificate delivered to it and which appears on its face to be in order as soon as reasonably practicable and, as soon as reasonably practicable after it has entered into a Transfer Certificate, send a copy of that Transfer Certificate to the Company.
- (e) Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Administrative Agent to enter into and deliver any duly completed Transfer Certificate on its behalf.

#### **24.7 Limitation of responsibility of Existing Lender**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the financial condition of an Obligor; or
  - (ii) the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:
    - (A) any Finance Document or any other document;
    - (B) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document, or

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- (C) any observance by any Obligor of its obligations under any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
  - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement; and
  - (ii) has not relied exclusively on any information supplied to it by the Existing Lender in connection with any Finance Document.
- (c) Nothing in any Finance Document requires an Existing Lender to:
  - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause; or
  - (ii) support any losses incurred by the New Lender by reason of the non-performance by either Obligor of its obligations under any Finance Document or otherwise.

#### **24.8 Costs resulting from change of Lender or Facility Office**

If:

- (a) a Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Company would be obliged to pay a Tax Payment or an Increased Cost,

then the Company need only pay that Tax Payment or Increased Cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

#### **25. DISCLOSURE OF INFORMATION**

- (a) Each Finance Party must keep confidential any information supplied to it by or on behalf of any Obligor in connection with the Finance Documents. However, a Finance Party is entitled to disclose information:
  - (i) which is publicly available, other than as a result of a breach by that Finance Party of this Clause;
  - (ii) in connection with any legal or arbitration proceedings;
  - (iii) if required to do so under any law or regulation;
  - (iv) to a governmental, banking, taxation or other regulatory authority;

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- (v) to its professional advisers;
  - (vi) to any rating agency;
  - (vii) to the extent allowed under paragraph (b) below;
  - (viii) to the other Obligor; or
  - (ix) with the agreement of the Obligor.
- (b) A Finance Party may disclose to an Affiliate or any person (a **third party**) with (or through) whom that Finance Party enters into or may enter, or has entered into, any kind of transfer, participation or other agreement in relation to this Agreement (a **participant**):
- (i) a copy of any Finance Document; and
  - (ii) any information which that Finance Party has acquired under or in connection with any Finance Document.

However, before a third party may receive any confidential information, it must agree with the relevant Finance Party to keep that information confidential on the terms of paragraph (a) above.

- (c) This Clause 25 supersedes any previous confidentiality undertaking given by a Finance Party in connection with this Agreement prior to it becoming a Party.

## 26. SET-OFF

A Finance Party may set off any matured obligation owed to it by the Company under the Finance Documents (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off, subject to applicable PRC laws and any SAFE requirement.

## 27. PRO RATA SHARING

### 27.1 Redistribution

If a Finance Party (the **recovering Finance Party**) receives or recovers any amount from an Obligor other than in accordance with this Agreement (a **recovery**) and applies that amount to a payment due under a Finance Document, then:

- (a) the recovering Finance Party must, within three Business Days, supply details of the recovery to the Administrative Agent;
- (b) the Administrative Agent must calculate whether the recovery is in excess of the amount which the recovering Finance Party would have received if the recovery had been received and distributed by the Administrative Agent in accordance with this Agreement without taking account of any Tax which would be imposed on the Administrative Agent in relation to a recovery or distribution; and

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- (c) the recovering Finance Party must pay to the Administrative Agent an amount equal to the excess (the **redistribution**).

### 27.2 Effect of redistribution

- (a) The Administrative Agent must treat a redistribution as if it were a payment by the relevant Obligor under this Agreement and distribute it among the Finance Parties, other than the recovering Finance Party, accordingly.
- (b) When the Administrative Agent makes a distribution under paragraph (a) above, the recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in that redistribution.
- (c) If and to the extent that the recovering Finance Party is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor will owe the recovering Finance Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
  - (i) a recovering Finance Party must subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor; and
  - (ii) the recovering Finance Party has paid a redistribution in relation to that recovery,

each Finance Party, on the request of the Administrative Agent, must reimburse the recovering Finance Party all or the appropriate portion of the redistribution paid to that Finance Party, together with interest for the period while it held the redistribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

### 27.3 Exceptions

Notwithstanding any other term of this Clause, a recovering Finance Party need not pay a redistribution to the extent that:

- (a) it would not, after the payment, have a valid claim against the relevant Obligor in the amount of the redistribution; or
- (b) it would be sharing with another Finance Party any amount which the recovering Finance Party has received or recovered as a result of legal or arbitration proceedings, where:
  - (i) the recovering Finance Party notified the Administrative Agent of those proceedings; and
  - (ii) the other Finance Party had an opportunity to participate in those proceedings but did not do so or did not take separate legal or arbitration proceedings as soon as reasonably practicable after receiving notice of them.

## 28. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction, that will not affect:

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- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

## 29. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

## 30. NOTICES

### 30.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given in person, by post or fax.
- (b) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.

### 30.2 Contact details

- (a) Except as provided below, the contact details of each Party for all communications in connection with the Finance Documents are those notified by that Party for this purpose to the Administrative Agent on or before the date it becomes a Party.
- (b) The contact details of the Company for this purpose are:

Address: No. 158 Jin Qiu Road  
Shanghai 201203  
P.R.China  
Fax number: +8621 50792710  
Attention: K J Kim, General Manager

with a copy to:

Address: PKL  
Daewoo Engineering, 5 FL  
9-3 Sunae, Bundang, Seongnam  
Kyunggi, 463-825, Korea  
Fax number: +8231 738 0999  
Attention: Jacob Kim

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- (c) The contact details of the Administrative Agent for this purpose are:

Address: 31F, HSBC Building  
1000 Lujiazui Ring Road  
Shanghai 200120  
People's Republic of China



Fax number: +8621 61602707  
Attention: Christine Lin/Carol CZ Cai/Betty Wang

with a copy to:

Address: 27/F, Chater House  
8 Connaught Road  
Central, Hong Kong  
Fax number: +852 2836 9672  
Attention: Sara Wong

- (d) The contact details of each Replacement Lender for this purpose are set out in Part 2 of Schedule 1.
- (e) Any Party may change its contact details by giving five Business Days' notice to the Administrative Agent or (in the case of the Administrative Agent) to the other Parties.
- (f) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

### 30.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:
  - (i) if delivered in person, at the time of delivery;
  - (ii) if posted, five days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
  - (iii) if by fax, when received in legible form.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to the Administrative Agent will only be effective on actual receipt by it.

### 30.4 Obligors

- (a) All communications under the Finance Documents (other than the Guarantee) to or from the Guarantor must be sent through the Company.
- (b) Any communication given to the Company in connection with a Finance Document will be deemed to have been given also to the Guarantor.

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- (c) Each Finance Party may assume that any communication made by the Company is made with the consent of the Guarantor.

### 31. LANGUAGE

- (a) Any notice given in connection with a Finance Document must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
  - (i) in English; or
  - (ii) (unless the Administrative Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

### 32. GOVERNING LAW

This Agreement is governed by PRC law.

### 33. ENFORCEMENT

#### 33.1 Arbitration

- (a) Any dispute arising from or in connection with this Agreement, including any question regarding its existence, validity or termination, must be submitted to China International Economic and Trade Arbitration Commission (the **Commission**) for arbitration which must be conducted in accordance with the Commission's Financial Disputes Arbitration Rules in effect at the time of applying for arbitration (for the purposes of this Subclause, the **Rules**). The arbitral award is final and binding upon all parties.

- (b) The Rules are incorporated by reference into this Subclause and capitalised terms used in this Subclause which are not otherwise defined in this Agreement, have the meaning given to them in the Rules.
- (c) The arbitral tribunal (the **Tribunal**) is to consist of three arbitrators. The Company and the Administrative Agent on behalf of the Lenders will each appoint one arbitrator within seven Business Days from the date of receipt of the Notice of Arbitration, failing which the Commission will make such appointment. The Commission will appoint the third arbitrator who will act as presiding arbitrator. The nationality of the presiding arbitrator must not be the same as the other two arbitrators appointed by the parties.
- (d) The seat, or legal place of arbitration, will be Shanghai. The language used in the arbitral proceedings will be English.
- (e) All arbitration costs (including legal fees and other related costs and taxes) will be borne by the unsuccessful party, unless otherwise determined by the Tribunal.
- (f) By agreeing to arbitration, the parties undertake to carry out any award immediately. The parties also waive irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority, insofar as such waiver may be validly made.
- (g) Unless the parties expressly agree in writing to the contrary, the parties undertake as a general principle to keep confidential all awards in their arbitration, together with all materials in the proceedings created

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for the purpose of the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain save as to the extent that disclosure may be required of a party by legal duty, to protect or to pursue a legal right or to enforce or challenge on award in bona fide legal proceedings before a state court or other judicial authority.

- (h) Where two or more disputes have been referred to arbitration, the Tribunal may, with the agreement of all parties to the dispute or upon the application of one of the parties, order that the whole or part of the matter or issue be consolidated or heard together upon such terms or conditions as the Tribunal thinks fit.

### 33.2 Waiver of immunity

The Company irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
- (c) waives all rights of immunity in respect of it or its assets.

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## SCHEDULE 1

### PART 1

#### REPLACEMENT LENDERS, LOANS AND COMMITMENTS

Facility	Aggregate Amount of Commitment and Loans	Replacement Lender	Amount of Commitment Retained/Assigned	Amount of Loans Retained/Assigned
Term Loan	RMB56,000,000			
		JPMorgan Chase Bank (China) Company Limited, Shanghai Branch	RMB 16,800,000 – fully funded	RMB 16,800,000
		HSBC Bank (China) Company Limited, Shanghai Branch	RMB 16,800,000 – fully funded	RMB 16,800,000
		Citibank (China) Co., Ltd. Shanghai Branch	RMB 11,200,000 – fully funded	RMB 11,200,000

Bank of America N.A. Shanghai Branch	RMB 11,200,000 – fully funded	RMB 11,200,000
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Revolving Credit	RMB130,000,000
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JPMorgan Chase Bank (China) Company Limited, Shanghai Branch	RMB 39,000,000 – fully funded, subject to Clauses 6.2 (Repayment of Revolving Credit Loans) & 7.6 (Re- borrowing of Revolving Credit Loans)	RMB 39,000,000
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HSBC Bank (China) Company Limited, Shanghai Branch	RMB39,000,000 – fully funded, subject to Clauses 6.2 (Repayment of Revolving Credit Loans) & 7.6 (Re- borrowing of Revolving Credit Loans)	RMB 39,000,000
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Facility	Aggregate Amount of Commitment and Loans	Replacement Lender	Amount of Commitment Retained/Assigned	Amount of Loans Retained/Assigned
		Citibank (China) Co., Ltd. Shanghai Branch	RMB 26,000,000 -- fully funded, subject to Clauses 6.2 (Repayment of Revolving Credit Loans) & 7.6 (Re- borrowing of Revolving Credit Loans)	RMB 26,000,000
		Bank of America N.A. Shanghai Branch	RMB 26,000,000 -- fully funded, subject to Clauses 6.2 (Repayment of Revolving Credit Loans) & 7.6 (Re- borrowing of Revolving Credit Loans)	RMB 26,000,000

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## SCHEDULE 1

### PART 2

#### ADMINISTRATIVE DETAILS OF REPLACEMENT LENDERS

Name	Facility Office	Notice Address
JPMorgan Chase Bank (China) Company Limited, Shanghai Branch	Shanghai	31F, HSBC Building 1000 Lujiazui Ring Road Shanghai 200120, P.R. China Attn: Christine Lin/Carol Cz Cai/Betty Wang Fax: 86-21-6160-2707
		27/F, Chater House 8 Connaught Road Central, Hong Kong Attn: Sara Wong Fax: 852-2836-9672

Citibank (China) Co.,  
Ltd. Shanghai Branch

Shanghai

34F Citigroup Tower, 33 Hua Yuan Shi Qiao Road  
Shanghai, 200120 P.R. China  
Attn: Zheng Jie  
Tele. # 86-21-2896-6535  
Fax: 86-21-5879-5936/8621-5879-5937

34F Citigroup Tower, 33 Hua Yuan Shi Qiao Road  
Shanghai, 200120 P.R. China  
Attn: Zhang Ling  
Tele. # 86-21-2896-6130  
Fax: 86-21-5879-1132

34F Citigroup Tower, 33 Hua Yuan Shi Qiao Road  
Shanghai, 200120 P.R. China  
Attn: Grace Zhou  
Tele. # 86-21-2896-6504  
Fax: 86-21-5879-5936/8621-5879-5937

34F Citigroup Tower, 33 Hua Yuan Shi Qiao Road,  
Shanghai, 200120 P.R. China  
Attn: Zhang Xun  
Tele. # 86-21-2896-6193  
Fax: 86-21-5879-1132

Bank of America N.A.  
Shanghai Branch

Shanghai

42/F IFC II Central Hong Kong  
Attn: Sandra Y.K. Wong  
Tele. # 852-2847-5852  
Fax: 852-2847-5886

**Name**

**Facility Office**

**Notice Address**

17/F AZIA Centre  
No 1233 Lujiazui Ring Road  
Shanghai 200120, P.R. China  
Attn: Clara Wang  
Tele. # 86-21-6160-8818  
Fax: 86-21-6160-8955

17/F AZIA Centre  
No 1233 Lujiazui Ring Road  
Shanghai 200120, P.R. China  
Attn: Jenny Xue  
Tele. # 86-21-6160-8888  
Fax: 86-21-616-8735

17/F AZIA Centre  
No 1233 Lujiazui Ring Road  
Shanghai 200120, P.R. China  
Attn: Louis Meng  
Tele. # 86-21-6160-8710  
Fax: 86-21-6160-8735

HSBC Bank (China)  
Company Limited,  
Shanghai Branch

Shanghai

35th Floor, HSBC Tower  
1000 Lujiazui Ring Road, Pudong,  
Shanghai 200120, P.R. China  
Attn: Chester Zhu  
Tele. # 86-21-3888-1995  
Fax: 86-21-6841-1435

35th Floor, HSBC Tower  
1000 Lujiazui Ring Road, Pudong,  
Shanghai 200120, P.R. China  
Attn: Caprie Xue

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**SCHEDULE 2**
**CONDITIONS PRECEDENT DOCUMENTS****PART 1****Obligors**

1. A copy of each of the following constitutional documents:
  - (a) in relation to the Company:
    - (i) a copy of the current business licence of the Company issued by the State Administration of Industry and Commerce of the PRC or its relevant local branch;
    - (ii) a copy of the approval certificate issued by the Ministry of Commerce of the PRC or its relevant local branch in respect of the Company;
    - (iii) the current foreign exchange registration certificate issued to the Company by SAFE or its relevant local branch;
    - (iv) the Articles of Association together with its amendments (if any);
    - (v) a copy of the approval issued by Ministry of Commerce of the PRC or its relevant local branch approving the establishment of the Company and its articles of association;
    - (vi) the capital contribution verification report issued by a qualified accounting firm or other person acceptable to the Administrative Agent certifying the paid-up registered capital of the Company;
    - (vii) a list of the directors of the Company; and
    - (viii) the current loan card issued to the Company by the PBOC or its relevant local branch; and
  - (b) in relation to the Guarantor, a copy of its:
    - (i) certificate of incorporation; and
    - (ii) its bylaws.
2. A copy of a resolution of the board of directors of each Obligor approving the terms of, and the transactions contemplated by, the Finance Documents.
3. A Director's/Secretary's Certificate for each Obligor substantially in the form of Part 2 of this Schedule, including a specimen of the signature of each person authorised on behalf of that Obligor to sign the Finance Documents or any other document in connection with the Finance Documents.

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**Finance Documents**

4. An original of this Agreement and the Guarantee each duly executed by the parties to it.

**Legal opinions**

5. A legal opinion of Fangda Partners, PRC law legal advisers to the Administrative Agent, addressed to the Finance Parties.
6. Legal opinions from the Guarantor's counsel in respect of United States federal law and the laws of the State of Connecticut, addressed to the Finance Parties; and legal opinions from the Administrative Agent's counsel in respect of the laws of the State of New York, addressed to the Finance Parties.

**Other documents and evidence**

7. A copy of the receipt for payment of all stamp duty in respect of this Agreement under PRC laws and regulations.
8. Evidence that all fees and expenses then due and payable from the Company under the Finance Documents have been or will be paid by the first Utilisation Date.
9. A copy of any other authorisation or other document, opinion or assurance, together with any necessary translations, which the Administrative Agent has notified the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, any Finance

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**PART 2**

**FORM OF DIRECTOR'S/SECRETARY'S CERTIFICATE**

To: JPMorgan Chase Bank (China) Company Limited, Shanghai Branch as Administrative Agent

**PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD**  
**RMB186,000,000 Amended and Restated Credit Agreement dated August 23, 2007 (the Agreement)**

I refer to the Agreement. Terms defined in the Agreement have, unless defined in this certificate, the same meaning when used in this certificate.

I am [a director of Photronics Imaging Technologies (Shanghai) Co., Ltd. (the **Company**)] [[Secretary] of Photronics, Inc. (the **Guarantor**)]. I am authorised to give this certificate and certify as follows:

1. Each document delivered by the Company to the Administrative Agent in respect of the Company/Guarantor under Schedule 2 (Conditions precedent documents) to the Agreement (including the documents listed below and attached to this certificate) is true and complete in all material respects and is in full force and effect on the date of this certificate:

*[include following for Company's director certificate]*

- (a) the current business licence of the Company issued by the State Administration of Industry and Commerce of the PRC or its relevant local branch;
- (b) the approval certificate issued by the Ministry of Commerce of the PRC or its relevant local branch in respect of the Company;
- (c) the current foreign exchange registration certificate issued to the Company by SAFE or its relevant local branch;
- (d) the Articles of Association of the Company, together with its amendments (if any);
- (e) the approval issued by Ministry of Commerce of the PRC or its relevant local branch approving the establishment of the Company and its articles of association;
- (f) the capital contribution verification report issued by a qualified accounting firm or other person acceptable to the Administrative Agent certifying the paid-up registered capital of the Company;
- (g) a list of the directors of the Company;
- (h) the current loan card issued to the Company by the PBOC or its relevant local branch; and
- (i) the minutes of a meeting of the Board of Directors of the Company held on [ ].

*[include following for Guarantor's Secretary's certificate]*

- (a) the certificate of registration of the Guarantor;
- (b) the By-laws of the Guarantor; and

- 
- (c) the minutes of resolutions passed at a meeting of the Board of Directors of the Guarantor held on [ ].

Neither the entry into of the Finance Documents by the [Company/Guarantor], nor the exercise by it of its rights or performance of its obligations under the Finance Documents will breach any borrowing or other power or restriction binding on the [Company/Guarantor] under its articles of association.

2. Each resolution adopted at the meeting referred to above is in full force and effect without modification.

3. The resolutions constitute all corporate action necessary on the part of the [Company/Guarantor] to:

- (a) approve the terms of and transactions contemplated by the Finance Documents; and
- (b) authorise the signing of, any communications and/or other action under or in connection with, the Finance Documents.

4. The following is a complete list of all persons who are directors of the [Company/Guarantor] as at the date of this Certificate and who were Directors on the date of the meeting referred to above.

[ ]

5. Each person listed below:

- (a) occupies the position stated against his name (and occupied that position on the date each Finance Document was signed by him);
- (b) is the person duly authorised in the minutes to sign the Finance Documents (and any other document in connection with the Finance Documents) on behalf of the [Company/Guarantor]; and
- (c) has his true signature appearing opposite his name.

Name	Position	Specimen Signature
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6. Unless disclosed to the Administrative Agent in writing, the [Company/Guarantor] has not created any Security Interests (other than Permitted Security Interests) which are subsisting at the date of this Certificate.

7. Unless we notify you to the contrary in writing, you may assume that this Certificate remains true and correct.

8. At the date of this certificate, the [Company/Guarantor] is solvent.

For

[ ]

.....  
[Director][Secretary]

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**SCHEDULE 3**

**FORM OF REQUEST**

To: JPMorgan Chase Bank (China) Company Limited, Shanghai Branch

From: [ ]

Date: [ ]

**PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD**  
**RMB186,000,000 Amended and Restated Credit Agreement dated August 23, 2007 (the Agreement)**

- 1. We refer to the Agreement. This is a Request.
- 2. We wish to borrow a [Term Loan/Revolving Credit Loan] on the following terms:
  - (a) Utilisation Date: [ ]
  - (b) Amount: RMB[ ]
  - (c) [Maturity Date: [ ].] [*Include for a Revolving Credit Loan.*]
- 3. Our payment instructions are: [ ].
- 4. We confirm that each condition precedent under the Agreement which must be satisfied on the date of this Request is so satisfied. In particular, we confirm that, as at the date of this Request:
  - (a) the Repeating Representations are correct in all material respects; and
  - (b) no Default is outstanding or would result from the Loan.

5. This Request is irrevocable.

By:

PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD

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**SCHEDULE 4**

**FORM OF TRANSFER CERTIFICATE**

To: JPMorgan Chase Bank (China) Company Limited, Shanghai Branch, as Administrative Agent

From: [EXISTING LENDER] (the Existing Lender) and [NEW LENDER] (the New Lender)

Date: [ ]

**Photronics Imaging Technologies (Shanghai) Co., Ltd. – RMB186,000,000 Amended and Restated Credit Agreement  
dated August 23, 2007 (the Agreement)**

We refer to the Agreement. This is a Transfer Certificate.

1. The Existing Lender transfers by novation to the New Lender the Existing Lender’s rights and obligations referred to in the Schedule below in accordance with the terms of the Agreement.
2. The proposed Transfer Date is [ ].
3. The administrative details of the New Lender for the purposes of the Agreement are set out in the Schedule.
4. The New Lender expressly acknowledges the limitations on the Existing Lender’s obligations in respect of this Transfer Certificate contained in the Agreement.
5. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Transfer Certificate.
6. This Transfer Certificate is governed by PRC law.

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**SCHEDULE**

**to**

**TRANSFER CERTIFICATE**

**Rights and obligations to be transferred by novation**

[insert relevant details, including applicable Commitment (or part)]

**Administrative details of the New Lender**

[insert details of Facility Office, address for notices and payment details etc.]

**[EXISTING LENDER]**

**[NEW LENDER]**

By:

By:

The Transfer Date is confirmed by the Administrative Agent as [ ].

JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH

By:

**Note: It is the responsibility of each New Lender to ascertain whether any other document or formality is required to perfect the transfer contemplated by this Transfer Certificate or to take the benefit of any interest in any security.**

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This Agreement has been entered into on the date stated at the beginning of this Agreement.

**SIGNATORIES**

**Company**

PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD.

By:



**Administrative Agent**

JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH

By:

**Replacement Lenders**

JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH

By:

CITIBANK (CHINA) CO., LTD. SHANGHAI BRANCH

By:

BANK OF AMERICA N.A. SHANGHAI BRANCH

By:

HSBC BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH

By:

EXHIBIT 10.29

EXECUTION COPY

**AMENDED AND RESTATED  
GUARANTEE AGREEMENT**

By

PHOTRONICS, INC

RELATING TO

RMB186,000,000  
CREDIT FACILITY

FOR

PHOTRONICS IMAGING TECHNOLOGIES (SHANGHAI) CO., LTD

August 23, 2007

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**THIS AMENDED AND RESTATED GUARANTEE AGREEMENT** (this **Agreement**) is dated as of August 23, 2007

### AND MADE BY:

**PHOTRONICS, INC** as guarantor (the **Guarantor**)

### IN FAVOR OF:

the Administrative Agent (as defined below) for and on behalf of itself and the other Finance Parties from time to time party to the Restated Credit Agreement described below.

### BACKGROUND

- A revolving credit and term loan facility was established in favor of Photronics Imaging Technologies (Shanghai) Co., Ltd. (the **Company**) pursuant to the terms of the agreement dated October 10, 2005 (as amended and modified through the date of this Agreement, the **Original Credit Agreement**) between the Company and the JPMorgan Chase Bank, N.A., Shanghai Branch, as lender (**JPM Shanghai**).
- The Guarantor and JPM Shanghai entered into a guarantee agreement (the **Original Guarantee**) dated October 10, 2005 in connection with the Original Credit Agreement.
- On August 6, 2007, "JPMorgan Chase Bank (China) Company Limited, Shanghai Branch" was incorporated pursuant to the People's Republic of China

Regulations on Administration of Foreign Funded Banks (State Council Decree No. 478), and in connection therewith the interests of JPM Shanghai, as lender under the Original Credit Agreement and related loan documents, were transferred to JPMorgan Chase Bank (China) Company Limited, Shanghai Branch (as such successor, the **Original Lender**).

4. The Company, the Original Lender and certain other lenders as assignees of the Original Lender have agreed to amend and restate the Original Credit Agreement on the terms and conditions provided in the amended and restated credit agreement dated August 23, 2007 (the **Restated Credit Agreement**) among the Company, JPMorgan Chase Bank (China) Company Limited, Shanghai Branch, as administrative agent (in this capacity the **Administrative Agent**), the Original Lender, and the other Finance Parties party thereto.
5. In connection with the entering into of the Restated Credit Agreement, the parties wish to amend and restate the Original Guarantee on the terms and conditions herein.

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IT IS AGREED as follows:

## 1. INTERPRETATION

### 1.1 Definitions

In this Agreement:

**Affiliate** means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

**Applicable Pledge Percentage** means 100% but 65% in the case of a pledge by the Guarantor or any Domestic Subsidiary of its Equity Interests in an Affected Foreign Subsidiary.

**Banking Services** means each and any of the following bank services provided to the Guarantor or any Subsidiary by any Lender or any of its Affiliates: (a) commercial credit cards, (b) stored value cards and (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

**Capital Lease Obligations** of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

**Code** means the Internal Revenue Code of 1986, as amended from time to time.

**Collateral Agent** means JPMorgan Chase Bank, National Association in its capacity as Collateral Agent for the Holders of Secured Obligations and any successor Collateral Agent appointed pursuant to the terms of the Intercreditor Agreement.

**Company** means Photronics Imaging Technologies (Shanghai) Co., Ltd.

**Consolidated EBITDA** for any period, Consolidated Net Income for such period, minus the aggregate amount of extraordinary, unusual or non-recurring income or gains for such period to the extent required to be separately stated in the Guarantor's financial statements in accordance with GAAP, plus, without duplication and to the extent deducted from revenues in determining Consolidated Net Income for such period, the sum of (a) the aggregate amount of Consolidated Interest Expense for such period, plus (b) the aggregate amount of income tax expense for such period, plus (c) the aggregate amount of depreciation and amortization for such period, plus (d) non-cash expenses related to stock-based compensation, plus (e) any extraordinary or non-recurring non-cash expenses, write-downs, write-offs, or losses including impairment or restructuring charges, all as determined on a consolidated basis with respect to the Guarantor and its consolidated Subsidiaries in accordance with GAAP, minus, to the extent included in determining Consolidated Net Income for such period, any cash payments made during such period in respect of items described in clauses (d) and (e) above subsequent to the fiscal quarter in which the relevant non-cash expense or loss was reflected in a statement of Consolidated Net Income. For the purposes of calculating Consolidated EBITDA for any period of four

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consecutive fiscal quarters (each, a "**Reference Period**"), (i) if at any time during such Reference Period the Guarantor or any Subsidiary shall have made any Material Disposition, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period, and (ii) if during such Reference Period the Guarantor or any Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. As used in this definition, "**Material Acquisition**" means any acquisition of property or series of related acquisitions of property that (a) constitutes (i) assets comprising all or substantially all or any significant portion of a business or operating unit of a business, or (ii) all or substantially all of the common stock or other Equity Interests of a Person, and (b) involves the payment of consideration by the Guarantor and its Subsidiaries in excess of \$10,000,000; and "**Material Disposition**" means any sale, transfer or disposition of property or series of related sales, transfers, or dispositions of property that yields gross proceeds to the Guarantor or any of its Subsidiaries in excess of \$10,000,000.

**Consolidated Interest Expense** means, with reference to any period, the interest expense (including without limitation interest expense under Capital Lease Obligations that is treated as interest in accordance with GAAP) of the Group calculated on a consolidated basis for such period with respect to (a)

all outstanding Indebtedness of the Group allocable to such period in accordance with GAAP and (b) Swap Agreements (including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers acceptance financing and net costs under interest rate Swap Agreements to the extent such net costs are allocable to such period in accordance with GAAP).

**Consolidated Net Income** means, with reference to any period, the net income (or loss) of the Group calculated in accordance with GAAP on a consolidated basis (without duplication) for such period; provided that there shall be excluded (a) the income (or deficit) of any Person (other than a Subsidiary of the Guarantor) in which the Guarantor or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Guarantor or such Subsidiary in the form of dividends or similar distributions and (b) the undistributed earnings of any Subsidiary of the Guarantor to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Finance Document as defined in the U.S. Facility Agreement) or any organizational or governing documents, any law, treaty, rule or regulation or any determination of an arbitrator or other Governmental Authority, in each case applicable to such Subsidiary. An example of the calculation of Consolidated EBITDA and Consolidated Net Income for the fiscal year ending October 29, 2006 and for the first two (2) fiscal quarters of 2007 is attached hereto as Schedule 1.1.

**Consolidated Senior Indebtedness** means at any time Consolidated Total Indebtedness minus the aggregate principal amount of Subordinated Indebtedness of the Group calculated on a consolidated basis as of such time in accordance with GAAP.

**Consolidated Total Assets** means, as of the date of any determination thereof, total assets of the Guarantor and its Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

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**Consolidated Total Indebtedness** means at any time the sum, without duplication, of (a) the aggregate Indebtedness of the Group calculated on a consolidated basis as of such time in accordance with GAAP, (b) the aggregate amount of Indebtedness of the Group relating to the maximum drawing amount of all letters of credit outstanding and bankers acceptances and (c) Indebtedness of the type referred to in clauses (a) or (b) hereof of another Person guaranteed by the Guarantor or any of its Subsidiaries.

**Control** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have the meanings correlative thereto.

**Convertible Subordinated Note Indenture** means (i) the Indenture dated as of April 15, 2003 from the Guarantor to The Bank of New York, as Trustee, as in effect on the Effective Date and (ii) any replacement or additional indenture, in each case as the same may from time to time be issued, amended, restated or otherwise modified as permitted herein and pursuant to the which the Guarantor issued the Convertible Subordinated Notes.

**Convertible Subordinated Notes** means (i) the \$150,000,000 2<sup>1</sup>/<sub>4</sub>% Convertible Subordinated Notes due 2008, as in effect on the Effective Date and (ii) any other promissory notes issued pursuant to the Convertible Subordinated Note Indenture, in each case as the same may from time to time be issued, amended, restated or otherwise modified as permitted herein and as issued pursuant to the terms of the Convertible Subordinated Note Indenture.

**Default** means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

**Domestic Subsidiary** means a Subsidiary organized under the laws of a jurisdiction located in the United States of America.

**Effective Date** means the date on which the obligations of the lenders under the U.S. Facility Agreement to make loans thereunder and of the issuing bank under the U.S. Facility Agreement to issue letters of credit thereunder become effective.

**Eligible Foreign Subsidiary** means any Foreign Subsidiary that is approved from time to time by the Administrative Agent.

**Environmental Laws** means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

**Equity Interests** means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

**ERISA** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

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**ERISA Affiliate** means any trade or business (whether or not incorporated) that, together with the Guarantor, is treated as a single employer under Section 414(b) or (c) of the Code or solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

**ERISA Event** means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Guarantor or any of

its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Guarantor or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Guarantor or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Guarantor or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Guarantor or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Guarantor or any ERISA Affiliate of any notice, concerning the imposition upon the Guarantor or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

**Event of Default** means an event specified as such in Clause 17 (Default) of the Restated Credit Agreement.

**Facility** means the RMB186,000,000 credit facility provided to the Company pursuant to the Restated Credit Agreement.

**Facility Guarantee Secured Parties** means the holders of the Indebtedness and other obligations of the Guarantor under this Agreement and the other Finance Documents from time to time and shall include their respective successors, transferees and assigns.

**Finance Document** means:

- (a) The Restated Credit Agreement;
- (b) this Agreement;
- (c) the Pledge Agreements;
- (d) the Intercreditor Agreement; or
- (e) any other document designated as such by the Administrative Agent and the Company.

**Financial Officer** means the chief financial officer, any vice president of finance, principal accounting officer, treasurer or controller of the Guarantor.

**Foreign Subsidiary** means any Subsidiary that is not a Domestic Subsidiary.

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**Foreign Subsidiary Borrower** means any Eligible Foreign Subsidiary that has been designated as a Foreign Subsidiary Borrower under the U.S. Facility pursuant to Section 2.23 of the U.S. Facility Agreement and that has not ceased to be a Foreign Subsidiary Borrower pursuant to such Section.

**GAAP** means generally accepted accounting principles in the United States of America.

**Governmental Authority** means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**Group** means the Guarantor and its Subsidiaries.

**Guarantee** of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

**Hazardous Materials** means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

**Indebtedness** of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable and accrued expenses incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all obligations of such Person under any Swap Agreement or under any similar type of agreement and (l) obligations of such Person under Sale

and Leaseback Transactions. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

**Holders of Secured Obligations** means the Facility Guarantee Secured Parties and the U.S. Facility Secured Parties.

**Intercreditor Agreement** means that certain Intercreditor Agreement dated as of the date hereof and entered into by the Administrative Agent, the Collateral Agent, and JPMorgan Chase Bank, National Association., as the administrative agent under the U.S. Facility, in connection with this Facility and the U.S. Facility, as the same may be amended, restated, supplemented or otherwise modified from time to time.

**Joint Venture** means any person that is a corporation, partnership, limited liability company or other legal entity or arrangement in which the Guarantor or any Subsidiary has an equity investment and possession, directly or indirectly, of the power to direct or cause the direction of the management or policies that person, whether through the ability to exercise voting power, by contract or otherwise.

**Lien** means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

**Loan Parties** means, collectively, the Company, the Guarantor and the Subsidiary Guarantors.

**Material Adverse Effect** means a material adverse effect on (a) the business, assets, property or condition (financial or otherwise) of the Company and the Subsidiaries taken as a whole or (b) the ability of the Company, the Guarantor or any other Loan Party to perform any of its obligations under this Agreement or any other Finance Document or (c) the rights of or remedies available to the Lenders under this Agreement or any other Finance Document.

**Material Subsidiary** means each Subsidiary (i) which, as of the most recent fiscal year of the Guarantor, for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Clause 6.1 (Financial Statements and Other Information), contributed greater than ten percent (10%) of the Guarantor's Consolidated EBITDA for such period or (ii) which contributed greater than ten percent (10%) of the Guarantor's Consolidated Total Assets as of such date; provided that, if at any time the aggregate amount of the Guarantor's Consolidated EBITDA or Guarantor's Consolidated Total Assets attributable to Subsidiaries (other than Affected Foreign Subsidiaries) that are not Subsidiary Guarantors exceeds twenty percent (20%) of the Guarantor's Consolidated EBITDA for any such period or twenty percent (20%) of the Guarantor's Consolidated Total Assets as of the end of any such fiscal year, the Guarantor (or, in the event the Guarantor has failed to do so within ten days, the Administrative Agent) shall designate sufficient Subsidiaries (other than Affected Foreign Subsidiaries) as "Material Subsidiaries" to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute Material Subsidiaries; provided,

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that, in the case of a Person becoming a Subsidiary pursuant to an acquisition, the foregoing financial tests shall be applied on a Pro Forma Basis immediately upon consummation of such acquisition and, assuming such Subsidiary would constitute a Material Subsidiary on a Pro Forma Basis, the Guarantor shall comply with Clause 6.9 (Pledge Agreements).

**Moody's** means Moody's Investors Service, Inc.

**Multitemployer Plan** means a multitemployer plan as defined in Section 4001(a)(3) of ERISA.

**New Mask Shop Obligations** means all obligations of the Guarantor to pay rent, additional rent and other payments under, or in connection with, the Build to Suit Lease dated May 5, 2006 by and between the Guarantor and Micron Technology, Inc., including any, extension, amendment, modification, replacement, substitution or refinancing of such obligations whether with Micron Technology, Inc. or a third party lender so long as the principal amount of such obligations is not increased.

**Obligations** means all indebtedness (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Guarantor and its Subsidiaries to any of the Lenders and the Administrative Agent, individually or collectively, existing on the Effective Date or arising thereafter, under the Restated Credit Agreement or any of the other Finance Documents or to the Lenders or any of their Affiliates under any Swap Agreement or any Banking Services Agreement or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof, whether direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise. For the avoidance of doubt, the Guarantor acknowledges that, without limiting the scope of any provision of this Agreement, the Guarantors' Obligations hereunder include, without limitation, any loss that the Finance Parties may incur on account of prohibitions or limitations that may exist under the laws or regulations of SAFE or other regulatory authorities in the PRC regarding the conversion into RMB of U.S. Dollars that may be paid by the Guarantor to the Finance Parties to satisfy any of its Obligations.

**Party** means a party to this Agreement.

**PBGC** means the Pension Benefit Guaranty Corporation referred to as defined in ERISA and any successor entity performing similar functions.

**Permitted Encumbrances** means:

- (a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.04, or as to which the grace period, if any, related thereto has not expired;

- (b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are not in excess of \$3,000,000 individually, or \$5,000,000 in the aggregate, or are being contested in compliance with Section 5.04;

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- (c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;
- (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII of the U.S. Facility Agreement; and
- (f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Guarantor or any Subsidiary;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

**Permitted Investments** means:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in commercial paper maturing within one year from the date of acquisition thereof and having, at such date of acquisition, the credit rating of A1 from S&P or P1 from Moody's;
- (c) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;
- (d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;
- (e) investments in taxable or tax exempt obligations of any state of the United States of America or any municipality thereof maturing within three years of the date of acquisition thereof and which is rated "A1" or higher by Moody's or "AA" or higher by S&P;
- (f) investments in auction rate securities maturing within one year of the date of acquisition thereof and which is rated "Aa3" or higher by Moody's or "AA-" or higher by S&P;
- (g) investments in fixed income securities maturing within one year of the date of acquisition thereof and which are rated "A" or higher by Moody's or S&P;

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- (h) to the extent the aggregate amount of such investments does not exceed 10% of Permitted Investments, investments in fixed income securities maturing within two years of the date of acquisition thereof and which are rated between "BBB-" and "BBB+" by S&P;
- (i) investments in money market mutual funds having assets in excess of \$1,000,000,000 whose sole investments are securities described in clauses (a) through (i) above; and
- (j) in the case of any Foreign Subsidiary, investments of comparable tenure and credit quality to those described in the foregoing clauses (a) through (i) or other high quality short term investments, in each case, customarily utilized in countries in which such Foreign Subsidiary operates for short term cash management purposes.

**Person** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership or other entity.

**PKL** means PKL, Ltd., a Korean corporation.

**Plan** means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

**Pledge Agreements** means that certain Pledge Agreement substantially in the form of Exhibit H to the U.S. Facility Agreement (including any and all supplements thereto) and executed by the relevant Loan Parties, and, in the case of any pledge of Equity Interests of a Foreign Subsidiary, any other pledge agreements, share mortgages, charges and comparable instruments and documents from time to time executed pursuant to the terms of Clause 6.10 (Pledge

Agreements) in favor of the Collateral Agent for the benefit of the Holders of Secured Obligations as amended, restated, supplemented or otherwise modified from time to time.

**Pro Forma Basis** means on a basis in accordance with GAAP and the Regulation S-X and otherwise reasonably satisfactory to the Administrative Agent.

**PSMC** means Photronics Semiconductor Mask Corporation, a Republic of China corporation.

**Related Parties** means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

**S&P** means Standard & Poor's.

**SAFE** means the State Administration of Foreign Exchange of the People's Republic of China.

**Sale and Leaseback Transaction** means any sale or other transfer of property by any Person with the intent to lease such property as lessee.

**Senior Leverage Ratio** has the meaning assigned to such term in Clause 7.11(a).

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**Significant Subsidiary** of a person means any Subsidiary of such person which, at the date of determination, is a "Significant Subsidiary" of such person as such term is defined in Regulation S-X under the United States Securities Exchange Act of 1934.

**Subordinated Indebtedness** of the Guarantor or any Subsidiary means the Indebtedness under the Convertible Subordinated Notes outstanding on the Effective Date and any other Indebtedness of such Person the payment of which is subordinated to payment of the obligations under the documents and instruments executed and delivered in connection with the U.S. Facility to the written satisfaction of, and the terms and conditions of which are otherwise satisfactory to, the Administrative Agent.

**subsidiary** means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent

**Subsidiary** means any subsidiary of the Guarantor.

**Subsidiary Guarantor** means a Subsidiary Guarantor as defined in and under the U.S. Facility Agreement.

**Swap Agreement** means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Guarantor or the Subsidiaries shall be a Swap Agreement.

**Taxes** means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

**Total Leverage Ratio** has the meaning assigned to such term in Clause 7.11(b).

**U.S. Facility** means the credit facility provided to the Guarantor and certain of its subsidiaries or affiliates pursuant to the U.S. Facility Agreement.

**U.S. Facility Agreement** means the credit agreement dated as of June 6, 2007 by and among the Guarantor, the other borrowers and guarantors party thereto, J.P. Morgan Securities Inc., as sole bookrunner and sole lead arranger, JPMorgan Chase Bank, National Association, as the administrative agent and collateral agent, and the lenders party thereto.

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**U.S. Facility Secured Parties** means the holders of the Obligations (as defined in the U.S. Facility Agreement) from time to time and shall include their respective successors and (in the case of a Lender as defined in and under the U.S. Facility, permitted) transferees and assigns.

**Withdrawal Liability** means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

## 1.2 Construction

- (a) Capitalized terms defined in the Restated Credit Agreement have, unless expressly defined in this Agreement, the same meaning in this Agreement.
- (b) The provisions of clause 1.2 (Construction) of the Restated Credit Agreement apply to this Agreement as though they were set out in full in this Agreement, except that references to the Restated Credit Agreement are to be construed as references to this Agreement.



- (c) **Includes** and **including** are not limiting; **or** is not exclusive; and **all** includes **any** and **any** includes **all**.
- (d) The term **law** includes any law, statute, regulation, regulatory requirement, rule, ordinance, ruling, decision, treaty, directive, order, guideline, regulation, policy, writ, judgment, injunction or request of any court or other governmental, inter-governmental or supranational body, officer or official, fiscal or monetary authority, or other ministry or public entity (and their interpretation, administration and application), whether or not having the force of law. A reference to a law is a reference to that law as amended or re-enacted and to any successor law.
- (e) A **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organization or other entity whether or not having separate legal personality;
- (f) A reference to an agreement (including the Restated Credit Agreement) is a reference to that agreement as amended, supplemented, restated or novated.
- (g) Clause headings used in this Agreement are for convenience only, and shall not be used in construing this Agreement.

## 2. GUARANTEE AND INDEMNITY

### 2.1 Guarantee and indemnity

The Guarantor irrevocably and unconditionally:

- (a) guarantees to each Finance Party punctual payment and performance by the Company of all its obligations under the Finance Documents;
- (b) undertakes with each Finance Party that, whenever the Company does not pay any amount when due under or in connection with any Finance Document, it must immediately on written demand by the Administrative Agent pay that amount as if the Guarantor were expressed to be the principal obligor; and

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- (c) indemnifies each Finance Party immediately on written demand against any loss or liability suffered by such Finance Party if any obligation guaranteed by the Guarantor under this Clause 2 is or becomes unenforceable, invalid or illegal; and the amount of the loss or liability under this indemnity with respect to a Finance Party will be equal to the amount such Finance Party would otherwise have been entitled to recover.

The obligations guaranteed by the Guarantor under this Clause and the losses and liabilities against which the Guarantor indemnifies the Finance Parties under this Clause are referred to, collectively, as the **Guaranteed Obligations** and, in each case, include all amounts that would become due but for the operation of the automatic stay under section 362(a) of the United States Bankruptcy Code of 1978.

Payment by the Guarantor of any Guaranteed Obligations shall be made to the Administrative Agent within five (5) Business Days after delivery by the Administrative Agent to the Guarantor of a written demand for payment of such Guaranteed Obligation; provided that a failure of the Administrative Agent to deliver such written demand shall not relieve the Guarantor of any of its obligations or liabilities to pay the Guaranteed Obligations under this Agreement; and provided further, however, that a failure of the Company to punctually pay and perform its obligations under the Finance Documents shall not be a default by the Guarantor under this Agreement unless and until a written demand is made on the Guarantor and the Guarantor shall have thereafter failed to pay the demanded amount within the aforesaid five (5) Business Days in accordance with this Agreement. The Finance Parties may apply the amount so collected against and in reduction or settlement of any of the Guaranteed Obligations.

### 2.2 Continuing guarantee

The guarantee under this Agreement is a continuing guarantee and will remain in full force and effect until the irrevocable and indefeasible payment in full of the ultimate balance of the Guaranteed Obligations (including all sums payable by the Company under the Finance Documents), regardless of any intermediate payment or discharge in whole or in part.

### 2.3 Reinstatement

- (a) If, at any time for any reason (including the bankruptcy, insolvency, receivership, reorganization, dissolution or liquidation of the Guarantor or the Company or the appointment of any receiver, intervenor or conservator of, or agent or similar official for, the Guarantor or the Company or any of their respective properties), any payment received by any Finance Party in respect of the Guaranteed Obligations is rescinded or avoided or must otherwise be restored or returned by such Finance Party, this Clause will continue to be effective or will be reinstated, if necessary, as if that payment had not been made.
- (b) Each Finance Party may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

### 2.4 Nature of Guarantor's obligations

The Guarantor's obligations under this Agreement are independent of any obligation of the Company or any other person, and a separate action or actions may be brought and prosecuted against the Guarantor under this Agreement whether or not any action is brought or prosecuted against the Company or any other person and whether or not the Company or any other person is

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## 2.5 Waiver of defenses

- (a) The obligations of the Guarantor under this Agreement will not be affected by, and the Guarantor irrevocably waives any defense it might have by virtue of, any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Agreement (whether or not known to it or any Finance Party), including:
- (i) any time, forbearance, extension or waiver granted to, or composition or compromise with, the Company or any other person;
  - (ii) any release of any person under the terms of any composition or arrangement;
  - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company or any other person;
  - (iv) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realize the full value of any security;
  - (v) any disability, incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
  - (vi) any amendment or variation (however fundamental) or restatement, replacement or novation of a Finance Document or any other document, guarantee or security so that references to that Finance Document in this Agreement shall include each amendment, variation, restatement, replacement and novation;
  - (vii) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document, guarantee or security, with the intent that the Guarantor's obligations under this Agreement shall remain in full force and be construed accordingly, as if there were no unenforceability, illegality, invalidity or non-provability;
  - (viii) any avoidance, postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any Obligor under a Finance Document resulting from any bankruptcy, insolvency, receivership, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation will for the purposes of the Guarantor's obligations under this Agreement be construed as if there were no such circumstance; or
  - (ix) the acceptance or taking of other guarantees or security for the Guaranteed Obligations, or the settlement, release or substitution of any guarantee or security or of any endorser, guarantor or other obligor in respect of the Guaranteed Obligations.
- (b) The Guarantor unconditionally and irrevocably waives:

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- (i) diligence, presentment, demand for performance, notice of nonperformance, protest, notice of protest, notice of dishonor, notice of the creation or incurring of new or additional indebtedness of the Company to any Finance Party, notice of acceptance of this Agreement and notices of any other kind whatsoever;
  - (ii) the filing of any claim with any court in the event of a receivership, insolvency or bankruptcy;
  - (iii) the benefit of any statute of limitations affecting any Obligor's obligations under the Finance Documents or the Guarantor's obligations under this Agreement or the enforcement of this Agreement; and
  - (iv) any offset or counterclaim or other right, defense, or claim based on, or in the nature of, any obligation now or later owed to the Guarantor by any of the Finance Parties.
- (c) The Guarantor irrevocably and unconditionally authorizes the Finance Parties to take any action in respect of the Guaranteed Obligations or any collateral or guarantees securing them or any other action that might otherwise be deemed a legal or equitable discharge of a surety, without notice to or the consent of the Guarantor and irrespective of any change in the financial condition of the Guarantor or the Company.

## 2.6 Immediate recourse

- (a) The Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or other guarantee or claim payment from the Company or any other person before claiming from the Guarantor under this Agreement.
- (b) Without limiting the generality of the foregoing, if an Event of Default occurs under the Restated Credit Agreement, simultaneously therewith a default under this Agreement shall have occurred, entitling the Administrative Agent, by written notice to the Guarantor, to declare that all or part of any amounts outstanding under the Finance Documents is immediately due and payable; and such declaration shall be effective as against the Guarantor for all purposes of this Agreement (including Clause 2.1) whether or not the Administrative Agent has made a similar declaration to the Company under the Restated Credit Agreement, and regardless of whether or not the Administrative Agent is permitted (by any applicable law, legal process, bankruptcy, insolvency or similar proceeding, or otherwise) to declare such amount to be due and payable by the Company pursuant to the Restated Credit Agreement. The Guarantor agrees that the provisions of Clause 17 (Default) of the Restated Credit Agreement are incorporated by reference in this Agreement and

made a part of this Agreement as if expressly set forth herein (and accordingly for purposes of this Agreement such provisions shall be construed in accordance with the laws of the State of New York).

## 2.7 Appropriations

Until all amounts which may be or become payable by the Company under or in connection with the Finance Documents have been irrevocably and indefeasibly paid in full, each Finance Party (or any trustee or agent on its behalf) may without affecting the liability of the Guarantor under this Agreement:

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- (a) refrain from applying or enforcing any other moneys, security, guarantees or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts; or
- (b) apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and
- (c) hold in a suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Agreement, without liability to pay interest on those moneys.

## 2.8 Non-competition

Unless:

- (a) all amounts which may be or become payable by the Company under or in connection with the Finance Documents have been irrevocably and indefeasibly paid in full; or
- (b) the Administrative Agent otherwise directs,

the Guarantor will not, after a claim has been made or by virtue of any payment or performance by it under this Agreement:

- (i) be subrogated to any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf);
- (ii) be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Agreement;
- (iii) claim, rank, prove or vote as a creditor of the Company or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or
- (iv) receive, claim or have the benefit of any payment, distribution or security from or on account of the Company, or exercise any right of set-off as against the Company.

The Guarantor must hold in trust for and immediately pay or transfer to the Administrative Agent (or as directed by the Administrative Agent) for the account of the Finance Parties any payment or distribution or benefit of security received by it contrary to this Agreement or contrary to any directions given by the Administrative Agent under this Agreement.

## 2.9 Additional security

This Agreement is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

## 2.10 Election of remedies

The Guarantor understands that the exercise by the Administrative Agent and the other Finance Parties of certain rights and remedies contained in the Finance Documents may affect or eliminate the Guarantor's right of subrogation and reimbursement against the Company and that the

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Guarantor may therefore incur a partially or totally non-reimbursable liability under this Agreement. The Guarantor expressly authorizes the Administrative Agent and the other Finance Parties to pursue their respective rights and remedies with respect to the Guaranteed Obligations in any order or fashion they deem appropriate, in their respective sole and absolute discretion, and waives any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution, exoneration or subrogation or any other rights or remedies of the Guarantor against the Company, any other person or any security, whether resulting from any election of rights or remedies by the Administrative Agent or any of the other Finance Parties or otherwise.

## 2.11 United States laws

- (a) In this Subclause, **fraudulent transfer law** means any applicable United States bankruptcy and State fraudulent transfer and conveyance statute and any

related case law.

- (b) The Guarantor acknowledges that:
  - (i) it will receive valuable direct or indirect benefits as a result of the transactions financed by the Finance Documents;
  - (ii) those benefits will constitute reasonably equivalent value and fair consideration for the purpose of any fraudulent transfer law; and
  - (iii) each of the Finance Parties has acted in good faith in connection with the guarantee given by the Guarantor and the transactions contemplated by the Finance Documents.
- (c) Each of the Finance Parties agrees that the Guarantor's liability under this Agreement is limited so that no obligation of, or transfer by, the Guarantor under this Agreement is subject to avoidance and turnover under any fraudulent transfer law.
- (d) The Guarantor represents and warrants to the Finance Parties that:
  - (i) the aggregate amount of its debts (including its obligations under the Finance Documents) is less than the aggregate value (being the lesser of fair valuation and present fair saleable value) of its assets;
  - (ii) its capital is not unreasonably small to carry on its business as it is being conducted;
  - (iii) it has not incurred and does not intend to incur debts beyond its ability to pay as they mature; and
  - (iv) it has not made a transfer or incurred any obligation under any Finance Document with the intent to hinder, delay or defraud any of its present or future creditors.
- (e) For purposes of this Clause:
  - (i) **debt** means any liability on a claim;
  - (ii) **claim** means:

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- (A) any right to payment, whether or not that right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or
  - (B) any right to an equitable remedy for breach of performance if that breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured; and
  - (iii) terms used in this Clause will be construed in accordance with the applicable United States bankruptcy and New York fraudulent conveyance statutes and the related case law.
- (f) Each representation and warranty in this Subclause:
    - (i) is made by the Guarantor on the date of this Agreement;
    - (ii) is deemed to be repeated by the Guarantor on the date of each Request, each Utilisation Date and each Interest Payment Date; and
    - (iii) is, when repeated, applied to the circumstances existing at the time of repetition.

### 3. TAXES

#### 3.1 Tax gross-up

- (a) The Guarantor must make all payments to be made by it under this Agreement without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If the Guarantor or the Administrative Agent is aware that the Guarantor must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must notify the other Party promptly.
- (c) If a Tax Deduction is required by law to be made by the Guarantor, the amount of the payment due from the Guarantor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If the Guarantor is required to make a Tax Deduction, the Guarantor must make the minimum Tax Deduction allowed by law and must make any payment required in connection with that Tax Deduction to the relevant tax authority within the time allowed by law.
- (e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction (a **Tax Payment**), the Guarantor must deliver

to the Administrative Agent for the account of the relevant Finance Parties evidence satisfactory to that Administrative Agent (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate Tax Payment has been paid to the relevant taxing authority.

- (f) If the Guarantor makes a Tax Payment to the relevant taxing authority in respect of a payment made to a Finance Party and that Finance Party (in its absolute discretion) determines that a credit against tax or any relief from tax (or its repayment) (a **Tax Credit**) is attributable to that Tax

Payment and it has used and retained that Tax Credit, then that Finance Party must promptly pay an amount to the Guarantor which that Finance Party determines (in its absolute discretion) will leave that Finance Party (after that payment) in the same after-tax position as it would have been in if that Tax Payment had not been required to be made by the Guarantor; provided, that the Guarantor, upon the request of that Finance Party, must to repay the amount paid over to the Guarantor (plus any penalties, interest or other charges imposed by the relevant taxing authority) to that Finance Party in the event that Finance Party is required to repay such credit to such taxing authority. No term of this Agreement will: (i) interfere with the right of any Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit; (ii) obligate any Finance Party to investigate or claim any credit, relief, remission or repayment available to it in respect of Tax or the extent, order and manner of any claim; or (iii) obligate any Finance Party to disclose any information relating to its affairs (Tax or otherwise) or any computation in respect of Tax.

### **3.2 Value added taxes**

- (a) Any amount payable under this Agreement by the Guarantor is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable in respect of any payment to a Finance Party, the Guarantor must pay to that Finance Party (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.
- (b) Where this Agreement requires the Guarantor to reimburse any Finance Party for any costs or expenses, the Guarantor must also at the same time pay and indemnify that Finance Party against all value added tax or any other Tax of a similar nature incurred by that Finance Party in respect of those costs or expenses but only to the extent that that Finance Party (acting reasonably) determines that it is not entitled to credit or repayment from the relevant tax authority in respect of the Tax.

## **4. PAYMENTS**

### **4.1 Place**

All payments by the Guarantor under this Agreement must be made to the Administrative Agent, for the account of the Finance Party entitled thereto, to the Administrative Agent's account at such office or bank as it may notify to the Guarantor for this purpose.

### **4.2 Currency**

- (a) Any amount under this Agreement payable in respect of any other amount payable under the Finance Documents is payable under this Agreement in the same currency as that other amount.
- (b) Each other amount payable under this Agreement is payable in US Dollars.

### **4.3 No set-off or counterclaim**

All payments made by the Guarantor under this Agreement must be made without set-off or counterclaim.

### **4.4 Timing of payments**

If this Agreement does not provide for when a particular payment is due, that payment is due immediately upon written demand by the Administrative Agent or the Finance Party entitled thereto.

## **5. REPRESENTATIONS**

### **5.1 Representations**

The representations set out in this Clause are made by the Guarantor to each of the Finance Parties.

### **5.2 Status**

- (a) The Guarantor is a corporation, duly incorporated, validly existing and in good standing under the laws of the State of Connecticut.
- (b) The Guarantor and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

### **5.3 Powers and authority**

The Guarantor has the power to enter into and perform, and has taken all necessary action to authorize the entry into and performance of, this Agreement and the transactions contemplated by this Agreement.

#### **5.4 Legal validity**

This Agreement is the Guarantor's legally valid and binding obligation, enforceable against it in accordance with its terms.

#### **5.5 Non-conflict**

The entry into and performance by the Guarantor of, and the transactions contemplated by, this Agreement do not conflict with:

- (a) any law applicable to the Guarantor;
- (b) the Guarantor's constitutional documents; or
- (c) to its knowledge, any material document which is binding upon the Guarantor or any of its assets.

#### **5.6 No default**

- (a) No Default is outstanding or will result from the execution of, or the performance of any transaction contemplated by, this Agreement; and

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- (b) no other event is outstanding which constitutes a default under any document which is binding on the Guarantor or any of its assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect.

#### **5.7 Authorizations**

All authorizations required by the Guarantor in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Agreement have been obtained or effected (as appropriate) and are in full force and effect. For the avoidance of doubt, the Guarantor represents and warrants that the failure of the Company to make foreign debt registration under PRC law following the performance of this Agreement shall have no effect on the Guarantor's obligations to the Finance Parties, or the Finance Parties' rights or remedies, under this Agreement.

#### **5.8 Financial statements**

The Guarantor's audited financial statements most recently delivered to the Administrative Agent:

- (a) have been prepared in accordance with United States generally accepted accounting principles and practices, consistently applied; and
  - (b) fairly represent the Guarantor's financial condition (consolidated, if applicable) as at the date to which they were drawn up,
- except, in each case, as disclosed to the contrary in those financial statements.

#### **5.9 Liens**

The Guarantor's and its Subsidiaries' respective assets are not subject to any Liens other than Permitted Encumbrances.

#### **5.10 No material adverse change**

There has been no material adverse change in the consolidated financial condition of, or in the business or prospects of, the Guarantor since the date to which the latest audited financial statements were prepared.

#### **5.11 Litigation**

To the best of the Guarantor's knowledge and belief, no litigation, arbitration or administrative proceedings are current, pending, or threatened in writing, which have or, if adversely determined, are reasonably likely to have a Material Adverse Effect.

#### **5.12 Information**

- (a) All information supplied by an Obligor to the Finance Parties in connection with the Finance Documents is true and accurate in all material respects as at its date or (if appropriate) as at the date (if any) at which it is stated to be given; and
- (b) no Obligor has omitted to supply any information which, if disclosed, might make the information supplied untrue or misleading in any material respect.

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#### **5.13 Taxes on payments**

All amounts payable by the Guarantor under this Agreement may be made without any Tax Deduction.

#### 5.14 Stamp duties

No stamp or registration duty or similar Tax or charge is payable in respect of this Agreement.

#### 5.15 Immunity

- (a) The execution by the Guarantor of this Agreement constitutes, and the exercise by it of its rights and performance of its obligations under this Agreement will constitute, private and commercial acts performed for private and commercial purposes; and
- (b) the Guarantor will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to this Agreement.

#### 5.16 Jurisdiction/governing law

- (a) The Guarantor's:
  - (i) irrevocable submission under this Agreement to the jurisdiction of the courts of New York;
  - (ii) agreement that this Agreement is governed by New York law; and
  - (iii) agreement not to claim any immunity to which the Guarantor or its assets may be entitled,are legal, valid and binding under the laws of its jurisdiction of incorporation; and
- (b) any judgment obtained in New York will be recognized and be enforceable by the courts of the Guarantor's jurisdiction of incorporation to the maximum extent permitted by law.

#### 5.17 United States laws

- (a) In this Subclause:

**Anti-Terrorism Law** means each of:

- (i) Executive Order No. 13224 on Terrorist Financing: Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism issued September 23, 2001, as amended by Order 13268 (as so amended, the **Executive Order**);
- (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (commonly known as the USA Patriot Act);

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- (iii) the Money Laundering Control Act of 1986, 18 U.S.C. sect. 1956; and
  - (iv) any similar law enacted in the United States of America subsequent to the date of this Agreement.

**investment company** has the meaning given to it in the United States Investment Company Act of 1940.

**public utility** has the meaning given to it in the United States Federal Power Act of 1920.

**Restricted Party** means any person listed:

- (i) in the Annex to the Executive Order;
  - (ii) on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury; or
  - (iii) in any successor list to either of the foregoing.
- (b) The Guarantor is not:
    - (i) a public utility or subject to regulation under the United States Federal Power Act of 1920;
    - (ii) an investment company or subject to regulation under the United States Investment Company Act of 1940; or

- (iii) subject to regulation under any United States Federal or State law or regulation that limits the Guarantor's ability to incur or guarantee indebtedness.
- (c) To the best of the Guarantor's knowledge, neither it nor any of its Affiliates:
  - (i) is, or is controlled by, a Restricted Party;
  - (ii) has received funds or other property from a Restricted Party; or
  - (iii) is in breach of or is the subject of any action or investigation under any Anti-Terrorism Law.
- (d) The Guarantor and each of its Affiliates have taken reasonable measures to ensure compliance with the Anti-Terrorism Laws.

## 5.18 U.S. Facility Agreement Representations

The representations and warranties set forth in Article III of the U.S. Facility Agreement are true and correct on and as of the date hereof.

## 5.19 Times for making representations

- (a) The representations set out in this Clause are made by the Guarantor on the date of this Agreement.

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- (b) Unless a representation is expressed to be given at a specific date, each representation is deemed to be repeated by the Guarantor on the date of each Request, each Utilisation Date and each Interest Payment Date.
  - (c) When the representation and warranty in Clause 5.6 (No default) is repeated on a Request for a Rollover Loan or an Interest Payment Date for a Term Loan, the reference to a Default will be construed as a reference to an Event of Default.
  - (d) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

## 6. AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable under the Finance Documents shall have been paid in full, the Guarantor covenants and agrees with the Lenders that:

### 6.1 Financial Statements and Other Information

The Guarantor will furnish to the Administrative Agent with sufficient copies for distribution to each Lender:

- (a) as soon as the same is available but in any event within ninety (90) days after the end of each fiscal year of the Guarantor, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Deloitte & Touche LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Guarantor and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;
- (b) as soon as the same is available but in any event within forty five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Guarantor, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Guarantor and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;
- (c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Guarantor (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed

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calculations demonstrating compliance with Clause 7.11 (Finance Covenants) and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 of the U.S. Facility Agreement and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

- (d) within 90 days of the commencement of each fiscal year of the Guarantor, projected consolidated balance sheets, income statements and cash flow statements of the Guarantor and its consolidated Subsidiaries for such fiscal year;



- (e) promptly after the same become publicly available, copies of all 10-Ks, 10-Qs and 8-Ks filed by the Guarantor or any Subsidiary with the U.S. Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, or distributed by the Guarantor to its shareholders generally, as the case may be; and
- (f) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Guarantor or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request.

Documents required to be delivered pursuant to clauses (a), (b), (d) or (e) of this Clause 6.1 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Guarantor posts such documents, or provides a link thereto on the Guarantor's website on the Internet at the website address <www.photonics.com>; (ii) on which such documents are posted on the Guarantor's behalf on IntraLinks™ or a substantially similar electronic platform, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) on which such documents are filed for public availability on the U.S. Securities and Exchange Commission's Electronic Data Gathering and Retrieval System; provided that the Guarantor shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Guarantor shall be required to provide paper copies of the compliance certificates required by clause (c) of this Clause 6.1 to the Administrative Agent.

## 6.2 Notices of Material Events

The Guarantor will furnish to the Administrative Agent prompt written notice of the following:

- (a) the occurrence of any Default;
- (b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Guarantor or any Affiliate thereof that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

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- (d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Clause shall be accompanied by a statement of a Financial Officer or other executive officer of the Guarantor setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

## 6.3 Existence; Conduct of Business

The Guarantor will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Clause 7.3 (Fundamental Changes and Asset Sales).

## 6.4 Payment of Obligations

The Guarantor will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Guarantor or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

## 6.5 Maintenance of Properties; Insurance

The Guarantor will, and will cause each of its Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

## 6.6 Books and Records; Inspection Rights

The Guarantor will, and will cause each of its Subsidiaries to, keep proper books of record and account in which entries that are full, true and correct in all material respects are made of all dealings and transactions in relation to its business and activities. The Guarantor will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its relevant books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.

## 6.7 Compliance with Laws and Material Contractual Obligations

The Guarantor will, and will cause each of its Subsidiaries to, (i) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform in all material respects its obligations

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under material agreements to which it is a party, in each case except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

## **6.8 Use of Proceeds**

The proceeds of the Loans will be used only to repay certain existing Indebtedness, finance the working capital needs, and for general corporate purposes, of the Guarantor and its Subsidiaries in the ordinary course of business. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

## **6.9 Pledge Agreements**

The Guarantor and its Subsidiaries shall execute or cause to be executed, by no later than sixty days (or such later date as is agreed to by the Collateral Agent in its reasonable discretion) after the date on which any Material Subsidiary would qualify or be designated by the Guarantor as a Subsidiary Guarantor under the U.S. Facility, a Pledge Agreement in favor of the Collateral Agent for the benefit of the Holders of Secured Obligations with respect to the Applicable Pledge Percentage of all of the outstanding Equity Interests of such Material Subsidiary; provided that no such pledge of the Equity Interests of a Foreign Subsidiary shall be required hereunder to the extent such pledge is prohibited by applicable law or the Collateral Agent and its counsel reasonably determine that, in light of the cost and expense associated therewith, such pledge would be unduly burdensome or not provide material Pledged Equity for the benefit of the Holders of Secured Obligations pursuant to legally binding, valid and enforceable Pledge Agreements. The Company further agrees to deliver, or cause the other borrowers under the U.S. Facility to deliver, to the Collateral Agent all such Pledge Agreements, together with appropriate corporate resolutions and other documentation (including legal opinions, the stock certificates representing the Equity Interests subject to such pledge, stock powers with respect thereto executed in blank, and such other documents as shall be reasonably requested to perfect the Lien of such pledge) in each case in form and substance reasonably satisfactory to the Collateral Agent, and in a manner that the Collateral Agent shall be reasonably satisfied that it has a first priority perfected pledge of or charge over the Pledged Equity related thereto. Notwithstanding the foregoing, the parties hereto acknowledge and agree that no Pledge Agreement in respect of the pledge of Equity Interests of a Material Subsidiary which is a Foreign Subsidiary shall be required until August 6, 2007 (or such later date as is agreed to by the Collateral Agent in its reasonable discretion).

## **6.10 Difference of Total Investment and Registered Capital**

For the purpose of the foreign debt registration with SAFE arising from the performance of the Guarantee by the Guarantor, the Guarantor shall, and shall cause the Company to, ensure that the total amount of (a) the aggregated long or medium-term loans borrowed by the Company as foreign debt, (b) the balance of the Company's short-term foreign borrowings and (c) any foreign debt incurred by the Company as a result of the performance of guarantees provided by any offshore entity or individual, is not in excess of the difference of the Company's total investment and registered capital.

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## **7. NEGATIVE COVENANTS**

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable under the Finance Documents have been paid in full, the Guarantor covenants and agrees with the Lenders that:

### **7.1 Indebtedness**

The Guarantor will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

- (a) the Obligations and any other Indebtedness created under the Finance Documents and Indebtedness created under the Facility;
- (b) the Obligations and any other Indebtedness created under the U.S. Facility Agreement and the related finance documents and Indebtedness created under the U.S. Facility;
- (c) Indebtedness existing on the date hereof and set forth in Schedule 7.1 and extensions, renewals and replacements of any such Indebtedness with Indebtedness of a similar type that does not increase the outstanding principal amount thereof;
- (d) Indebtedness of (i) any Loan Party to any other Loan Party, (ii) any Subsidiary to any Loan Party and (iii) any Subsidiary that is not a Loan Party to any other Subsidiary that is not a Loan Party;
- (e) Guarantees by the Guarantor of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of the Guarantor or any other Subsidiary;
- (f) Indebtedness of the Guarantor or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided that (i) such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed \$35,000,000 at any time outstanding;
- (g) Subordinated Indebtedness so long as, after giving effect to the incurrence thereof, no Default shall have occurred and be continuing and the Company shall be in compliance, on a pro forma basis after giving effect to such incurrence, with the covenants contained in Clause 7.11 (Financial Covenants) recomputed as if such incurrence had occurred on the first day of the period for testing such compliance;
- (h) Indebtedness of the Guarantor or any Subsidiary as an account party in respect of trade letters of credit;

- (i) (i) Indebtedness of the Guarantor or any Subsidiary under any Swap Agreement otherwise permitted under Clause 7.5 (Swap Agreements), (ii) the Guarantee of any Loan Party of any such Indebtedness and (iii) the Guarantee of any Loan Party of the

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obligations of PSMC, PKL or any of their respective subsidiaries under any Swap Agreement entered into in the ordinary course of business;

- (j) the New Mask Shop Obligations; and
- (k) unsecured Indebtedness in an aggregate principal amount not exceeding \$25,000,000 at any time outstanding; provided that the aggregate principal amount of Indebtedness of the Guarantor's Subsidiaries other than Company permitted by this clause (j) shall not exceed \$15,000,000 at any time outstanding.

## 7.2 Liens

The Guarantor will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

- (a) Permitted Encumbrances and Liens created under the Pledge Agreements;
- (b) any Lien on any property or asset of the Guarantor or any Subsidiary existing on the date hereof and set forth in Schedule 7.2; provided that (i) such Lien shall not apply to any other property or asset of the Guarantor or any Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;
- (c) any Lien existing on any property or asset prior to the acquisition thereof by the Guarantor or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Guarantor or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;
- (d) Liens on fixed or capital assets acquired, constructed or improved by the Guarantor or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Clause 7.1 (Indebtedness), (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within ninety (90) days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such security interests shall not apply to any other property or assets of the Guarantor or any Subsidiary; and
- (e) customary bankers' Liens and rights of setoff arising by operation of law and incurred on deposits made in the ordinary course of business;
- (f) Liens on certain real property located in Boise, Idaho securing the New Mask Shop Obligations; and

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- (g) attachments, appeal bonds, judgments and other similar Liens, for sums not exceeding \$1,000,000 in the aggregate arising in connection with court proceedings; provided, that the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are being contested in good faith and by appropriate proceedings and adequate reserves in respect thereof have been established on the books of the Guarantor to the extent required by GAAP.

## 7.3 Fundamental Changes and Asset Sales

- (a) The Guarantor will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) any of its assets, (including pursuant to a Sale and Leaseback Transaction), or all or any of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Person may merge into the Guarantor in a transaction in which the Guarantor is the surviving corporation, (ii) any Subsidiary may merge into a Loan Party in a transaction in which the surviving entity is such Loan Party (provided that any such merger involving the Guarantor must result in the Guarantor as the surviving entity), (iii) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to a Loan Party and (iv) the Guarantor and its Subsidiaries may (A) sell inventory, used or surplus equipment and Permitted Investments in the ordinary course of business and real estate located in Dresden, Germany not currently used in the operation of the Guarantor's business, (B) effect sales, trade-ins or dispositions of used equipment for value in the ordinary course of business consistent with past practice, (C) enter into licenses of technology in the ordinary course of business, (D) so long as the Guarantor will continue to own and Control more than 50% of the ordinary voting and economic power of PSMC and Company, sales of shares of the common stock or other equity interests of PSMC or Company (as equitably adjusted for stock splits, stock dividends and the like), and (E) make any other sales, transfers, leases or dispositions of assets with an aggregate book value that, together with the aggregate book value of all other assets of the Guarantor and its Subsidiaries previously leased, sold or disposed of as permitted by this clause (E) during any fiscal year of the Guarantor, does not exceed 10% of Consolidated Total Assets (as reflected in the most recent consolidated balance sheet of the Guarantor delivered to the Lenders) and (vi) any Subsidiary (other than a Foreign Subsidiary Borrower) may liquidate or dissolve if the Guarantor determines in good faith that such liquidation or dissolution is in the best interests of the Guarantor and is not materially disadvantageous to the Lenders; provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Clause 7.4 (Investments, Loans, Advances, Guarantees and Acquisitions).

- (b) The Guarantor will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Guarantor and its Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto, including semi-conductor application processes.

- (c) The Guarantor will not change its fiscal year from the annual period which ends on the Sunday closest to October 29 or its fiscal quarters which, during the term of this Agreement, consist of four equal 13 week periods.

#### 7.4 Investments, Loans, Advances, Guarantees and Acquisitions

The Guarantor will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any Person or any assets of any other Person constituting a business unit, except

- (a) Permitted Investments;
- (b) with respect to any Foreign Subsidiary, direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the government of the country in which such Foreign Subsidiary is organized or has its principal place of business, in each case maturing within one year from the date of acquisition thereof, so long as the aggregate amount of all such obligations for all Foreign Subsidiaries does not exceed \$5,000,000 in the aggregate at any time outstanding;
- (c) loans, advances or investments existing on the date hereof by the Guarantor and the Subsidiaries to or in their respective subsidiaries;
- (d) investments, loans or advances made by the Guarantor in or to any Subsidiary and made by any Subsidiary to the Guarantor (provided that not more than \$25,000,000 in investments, loans or advances or capital contributions may be made and remain outstanding, during the term of this Agreement, by any Loan Party to a Subsidiary which is not a Loan Party).
- (e) Guarantees constituting Indebtedness permitted by Clause 7.1 (Indebtedness) and Guarantees by the Guarantor of rental obligations or accounts payable of any Subsidiary;
- (f) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;
- (g) investments made in connection with a sale of assets permitted by Clause 7.3 (Fundamental Changes and Asset Sales) to the extent of the non-cash consideration received by the Guarantor or a Subsidiary;
- (h) Permitted Acquisitions;
- (i) investments by the Guarantor or any Subsidiary existing on the date hereof and set forth in Schedule 7.4;

- (j) investments by the Guarantor or any Subsidiary after the Effective Date in Joint Ventures that do not exceed \$50,000,000 in the aggregate at any time outstanding; and
- (k) any other investment (other than acquisitions), loan or advance (including investments made to meet minimum capital requirements of foreign jurisdictions) so long as the aggregate amount of all such investments does not exceed \$10,000,000 during the term of this Agreement.

#### 7.5 Swap Agreements

The Guarantor will not, and will not permit any of its Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Guarantor or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the Guarantor or any of its Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Guarantor or any Subsidiary.

#### 7.6 Restricted Payments

- (a) The Guarantor will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (i) the Guarantor may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (iii) the Guarantor may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management or employees of the Guarantor and its Subsidiaries and (iv) the Guarantor may make any other Restricted Payment so long as (1) no Default or Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect (including pro forma effect) thereto and (2) the aggregate amount of such Restricted Payments paid by the Guarantor or any Subsidiary does not exceed \$10,000,000 during any fiscal year of the Guarantor unless the Guarantor and the Subsidiaries are in compliance on a pro forma basis reasonably acceptable to the Administrative Agent after giving effect to such Restricted Payment with a maximum Senior Leverage Ratio of 1.5 to 1.0 and a maximum Total Leverage Ratio of 3.0 to 1.0.

- (b) The Guarantor will not, and will not permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except: (i) payment of Indebtedness created under the Finance Documents; (ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness (subject to any subordination provisions thereof); (iii) prepayment at the consummation of a Permitted Acquisition of Indebtedness assumed in connection with such Permitted Acquisition; (iv) prepayment, purchase, redemption, retirement or other acquisition of the Convertible Subordinated Notes by exchange for or out of the proceeds received from a substantially concurrent issue of new shares of its non-mandatorily redeemable Equity Interests or from a substantially concurrent incurrence of Subordinated Indebtedness

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(including mandatorily redeemable Equity Interests of the Guarantor) within 90 days of such issuance or incurrence (provided that the foregoing 90 day requirement shall not apply to any prepayment, purchase, redemption, retirement or other acquisition of the Convertible Subordinated Notes outstanding on the Effective Date); (v) so long as at the time thereof and immediately after giving effect (including pro forma effect) thereto no Default shall have occurred and be continuing, prepayment, purchase, redemption, retirement or other acquisition in cash of the Convertible Subordinated Notes outstanding on the Effective Date; and (vi) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness.

#### **7.7 Transactions with Affiliates**

The Guarantor will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to the Guarantor or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Guarantor and its wholly owned Subsidiaries not involving any other Affiliate, (c) in addition to transactions set forth in Schedule 7.7, transactions with Related Parties not exceeding \$6,000,000 in the aggregate, (d) Indebtedness permitted by Clauses 7.1(b) and 7.1(c), investments permitted by Clause 7.4 (Investments, Loans, Advances, Guarantees and Acquisitions) and fundamental changes permitted by Clause 7.3 (Fundamental Changes and Asset Sales) so long as each such transaction is at a price and on terms and conditions not less favorable to the Guarantor or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (e) any Restricted Payment permitted by Clause 7.6 (Restricted Payments), (f) transactions existing on the date hereof and set forth in Schedule 7.7 and (g) any Affiliate who is an individual may serve as a director, officer or employee of the Guarantor or such Subsidiary and receive compensation (including stock options) for his or her services in such capacity.

#### **7.8 Restrictive Agreements**

The Guarantor will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Guarantor or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to holders of its Equity Interests or to make or repay loans or advances to the Guarantor or any other Subsidiary or to Guarantee Indebtedness of the Guarantor or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 7.8 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (v) clause (a) of the foregoing shall not apply to customary provisions in leases and

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other contracts restricting the assignment thereof and (vi) clause (b) of the foregoing shall not apply to restrictions or conditions imposed by the organizational documents of any Joint Venture to the extent that an investment in such Joint Venture is permitted by Clause 7.4(j).

#### **7.9 Issuances of Equity Interests by Subsidiaries**

The Guarantor will not permit any Subsidiary to issue any additional shares of its Equity Interests other than (a) to the Guarantor or a wholly-owned Subsidiary, (b) any such issuance that does not change the Guarantor's direct or indirect percentage ownership interest in such Subsidiary, (c) any such issuance that is permitted pursuant to Clause 7.3 or 7.4 and (d) any such issuance by PKL, PSMC, Company or PKLT Co., Ltd., a Taiwanese corporation, so long as the Guarantor continues to own and control more than 50% of the voting and economic power of such Subsidiary.

#### **7.10 Amendment of Material Documents**

The Guarantor will not, and will not permit any Subsidiary to, amend, modify or waive (a) any of its rights under its certificate of incorporation, by-laws or other organizational documents, in each case in any respect adverse to the Lenders or (b) any of the terms of any Subordinated Indebtedness (including, without limitation, the terms contained in any Convertible Subordinated Note Indenture and any Convertible Subordinated Notes), in each case in any respect adverse to the Lenders (for the purposes of this Clause 7.10(b) and without limitation of the scope of the definition of "adverse", any amendment to increase the principal amount, the interest rate or fees or other amounts payable, to advance the dates upon which payments are made or to alter any subordination provision (or any definition related thereto) shall be deemed to be "adverse").

#### **7.11 Financial Covenants**

- (a) **Maximum Senior Leverage Ratio.** The Guarantor will not permit the ratio (the **Senior Leverage Ratio**), determined as of the end of each of its

fiscal quarters ending on and after April 29, 2007, of (i) Consolidated Senior Indebtedness to (ii) Consolidated EBITDA for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Guarantor and its Subsidiaries on a consolidated basis, to be greater than 2.00 to 1.00.

- (b) **Total Leverage Ratio.** The Guarantor will not permit the ratio (the **Total Leverage Ratio**), determined as of the end of each of its fiscal quarters ending on and after April 29, 2007, of (i) Consolidated Total Indebtedness to (ii) Consolidated EBITDA for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Guarantor and its Subsidiaries on a consolidated basis, to be greater than 3.50 to 1.00.
- (c) **Minimum Unrestricted Cash Balances.** The Guarantor will not permit the aggregate amount of unrestricted cash balances and Permitted Investments maintained by the Guarantor and its Subsidiaries to be less than \$50,000,000. For the avoidance of doubt, any cash deposited with the Collateral Agent pursuant to the terms of the Pledge Agreements shall be deemed to be unrestricted cash.

## **8. EVIDENCE AND CALCULATIONS**

### **8.1 Accounts**

Accounts maintained by any Administrative Agent in connection with this Agreement are prima facie evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

### **8.2 Certificates and determinations**

Any certification or determination by the Administrative Agent of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **9. INDEMNITIES AND BREAK COSTS**

### **9.1 Indemnity**

- (a) The Guarantor agrees to indemnify each Finance Party and its respective affiliates, directors, officers, representatives and agents from and against all claims, liabilities, obligations, losses, damages, penalties, judgments, costs and expenses of any kind which may be imposed on, incurred by or asserted against any of them by any person (including any Finance Party) in any way relating to or arising out of this Agreement or any default under or breach of this Agreement by the Guarantor, but the Guarantor will not be liable to an indemnified party to the extent any liability results from that indemnified party's gross negligence or wilful misconduct.
- (b) Payment by an indemnified party will not be a condition precedent to the obligations of the Guarantor under this indemnity.
- (c) This Subclause will survive the initial Utilisation Date, the making and repayment of the Loans, any novation, transfer or assignment of the Loans and the termination of this Agreement.

### **9.2 Currency indemnity**

- (a) The Guarantor must, as an independent obligation, indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:
  - (i) that Finance Party receiving an amount in respect of an Obligor's liability under the Finance Documents; or
  - (ii) that liability being converted into a claim, proof, judgment or order,in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.
- (b) Notwithstanding any other provision in this Agreement, any Finance Party may convert any amount which it receives under Clause 4.2(b) into RMB and the Guarantor must indemnify that Finance Party against any loss or liability that Finance Party incurs in respect of such conversion.

- (c) Unless otherwise required by law, the Guarantor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

## **10. AMENDMENTS AND WAIVERS**

### **10.1 Procedure**

Except as provided in this Clause, any term of this Agreement may only be amended or waived with the agreement of the Guarantor and the Administrative Agent acting on behalf of the Majority Lenders. The Administrative Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.

### **10.2 Change of currency**

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognized at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Administrative Agent (acting reasonably and after consultation with the Guarantor) determines is necessary to reflect the change.

### 10.3 Waivers and remedies cumulative

The rights of the Administrative Agent and the other Finance Parties under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of their rights under other guarantees or agreements or the general law; and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

## 11. CHANGES TO THE PARTIES

### 11.1 Assignments and transfers by the Guarantor

The Guarantor may not assign or transfer any of its rights and obligations under this Agreement without the prior consent of the Administrative Agent.

### 11.2 Assignments and transfers by Finance Parties

The Guarantor consents to any assignment, transfer or novation made by any Finance Party under the Restated Credit Agreement.

## 12. DISCLOSURE OF INFORMATION

- (a) Each Finance Party must keep confidential any information supplied to it by or on behalf of the Guarantor in connection with this Agreement. However, each Finance Party is entitled to disclose information:

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- (i) which is publicly available, other than as a result of a breach by such Finance Party of this Clause;
  - (ii) in connection with any legal or arbitration proceedings;
  - (iii) if required to do so under any law or regulation;
  - (iv) to a governmental, banking, taxation or other regulatory authority;
  - (v) to its professional advisers;
  - (vi) to any rating agency;
  - (vii) to the extent allowed under paragraph (b) below:
  - (viii) to the Company; or
  - (ix) with the agreement of the Guarantor.

- (b) Any Finance Party may disclose to an Affiliate or any person with whom it may enter, or has entered into, any kind of transfer, participation or other agreement in relation to this Agreement (**a participant**);

- (i) a copy of this Agreement; and
- (ii) any information which that Finance Party has acquired under or in connection with this Agreement.

However, before a participant may receive any confidential information, it must agree with that Finance Party to keep that information confidential on the terms of paragraph (a) above.

- (c) This Clause 12 supersedes any previous confidentiality undertaking given by any Finance Party in connection with this Agreement prior to it becoming a Party.

## 13. SET-OFF

A Finance Party may set off any matured obligation owed to it by the Guarantor under this Agreement (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in

its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

#### 14. ENFORCEMENT BY ADMINISTRATIVE AGENT

The Guarantor agrees that the Administrative Agent may enforce this Guaranty for and on behalf of the Finance Parties.

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#### 15. NO MARSHALLING

Except to the extent required by applicable law, neither the Administrative Agent nor any other Finance Party will be required to marshal any collateral securing, or any guarantees of, the Guaranteed Obligations, or to resort to any item of collateral or any guarantee in any particular order, and the Finance Parties' rights with respect to any collateral and guarantees will be cumulative and in addition to all other rights, however existing or arising. To the extent permitted by applicable law, the Guarantor irrevocably waives, and agrees that it will not invoke or assert, any law requiring or relating to the marshaling of collateral or guarantees or any other law which might cause a delay in or impede the enforcement of the Finance Parties' rights under this Agreement or any other agreement.

#### 16. ADMINISTRATIVE AGENT'S DUTIES

The grant to the Administrative Agent under this Agreement of any right or power does not impose upon the Administrative Agent any duty to exercise that right or power.

#### 17. SEVERABILITY

If a term of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of this Agreement; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of this Agreement.

#### 18. COUNTERPARTS

This Agreement may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

#### 19. NOTICES

##### 19.1 In writing

- (a) Any communication in connection with this Agreement must be in writing and, unless otherwise stated, may be given in person, by post or fax.
- (b) Unless it is agreed to the contrary, any direction, consent or agreement required under this Agreement must be given in writing.

##### 19.2 Contact details

- (a) The contact details of the Guarantor for purposes of this Agreement are:

Address: Photronics, Inc.  
15 Secor Road  
Brookfield, Connecticut 06804  
Fax number: +1 203 775 5601

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Attention: Treasurer, David Callen

- (b) The contact details of the Administrative Agent for purposes of this Agreement are:

Address: 31F, HSBC Building  
1000 Liujiazui Ring Road  
Shanghai 200120  
People's Republic of China  
Fax number: +8621 61602707  
Attention: Christine Lin/Carol CZ Cai/Betty Wang.

- (c) Any Party may change its contact details by giving five Business Days' notice to the other Party.



### 19.3 Communications

- (a) Any communication given to the Company in connection with a Finance Document will be deemed to have been given also to the Guarantor.
- (b) The Finance Parties may assume that any communication made by the Company is made with the knowledge and consent of the Guarantor.

### 19.4 Effectiveness

- (a) Except as provided below, any communication in connection with this Agreement will be deemed to be given as follows:
  - (i) if delivered in person, at the time of delivery;
  - (ii) if mailed, five days after being deposited in the mail, postage prepaid, in a correctly addressed envelope; and
  - (iii) if by fax, when sent with confirmation of transmission.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to any Finance Party will only be effective on actual receipt by it.

## 20. LANGUAGE

- (a) Any notice given in connection with this Agreement must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
  - (i) in English; or
  - (ii) (unless the Administrative Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

## 21. GOVERNING LAW

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

## 22. ENFORCEMENT

### 22.1 Jurisdiction

- (a) For the benefit of the Administrative Agent and each of the other Finance Parties, the Guarantor agrees that any New York State court or Federal court sitting in the City and County of New York has jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the jurisdiction of those courts.
- (b) The Guarantor acknowledges and agrees that New York courts are the most appropriate and convenient courts to settle any such dispute.
- (c) To the extent allowed by law, the Administrative Agent or any other Finance Party may take:
  - (i) proceedings in any other court; and
  - (ii) concurrent proceedings in any number of jurisdictions.

### 22.2 Service of process

Without prejudice to any other mode of service, the Guarantor irrevocably consents to the service of process relating to any proceedings by a notice given in accordance with Clause 17 (Notices) above. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

### 22.3 Forum convenience and enforcement abroad

The Guarantor:

- (a) waives objection to the New York State and Federal courts on grounds of personal jurisdiction, inconvenient forum or otherwise as regards proceedings in connection with this Agreement; and
- (b) agrees that a judgment or order of a New York State or Federal court in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

## 22.4 Waiver of immunity

The Guarantor irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and

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- (c) waives all rights of immunity in respect of it or its assets.

## 22.5 Waiver of trial by jury

THE GUARANTOR AND THE ADMINISTRATIVE AGENT BY SIGNING BELOW (ON BEHALF OF ITSELF AND THE OTHER FINANCE PARTIES) WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION IN CONNECTION WITH ANY FINANCE DOCUMENT OR ANY TRANSACTION CONTEMPLATED BY ANY FINANCE DOCUMENT. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO TRIAL BY COURT.

## 23. MISCELLANEOUS

### 23.1 Successors and assigns

This Agreement will be binding upon and inure to the benefit of the Guarantor, the Administrative Agent, the other Finance Parties and their respective successors and assigns, except that the Guarantor may not assign its obligations under this Agreement, and any purported assignment by the Guarantor shall be void and of no effect.

### 23.2 Integration

This Agreement contains the complete agreement between the Finance Parties and the Guarantor with respect to the matters to which it relates and supersedes all prior agreements and understandings, whether written or oral, with respect to those matters.

### 23.3 Confirmations of Guarantor

- (a) The Guarantor confirms that it has consented to the execution, delivery and performance of the Restated Credit Agreement by the Company, to the terms and conditions of the Restated Credit Agreement, and to the transactions contemplated by the Restated Credit Agreement.
- (b) The Guarantor confirms, reaffirms and ratifies the Original Guarantee and acknowledges and agrees that the Original Guarantee, as amended and restated and substituted by this Agreement, is, and shall remain, the valid and enforceable obligation of the Guarantor.
- (c) The Guarantor confirms and agrees that it has no defenses, counterclaims or set-offs to its obligations under the Original Guarantee, as amended and restated by this Agreement, in respect of the Original Credit Agreement as amended and restated by the Restated Credit Agreement, and hereby waives any such defense, counterclaim or set-off.
- (d) The Guarantor represents, warrants and confirms that immediately prior to the effectiveness of this Agreement there was not outstanding any default under, or breach of, the terms of the Original Guarantee.
- (e) The Guarantor acknowledges that the Finance Parties are entering into the Restated Credit Agreement and this Agreement in reliance on the foregoing confirmations.

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### 23.4 Several Obligations

Any obligations of the Finance Parties under or in respect of this Agreement are several, and not joint.

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This Agreement has been entered into on the date stated at the beginning of this Agreement.

## SIGNATORIES

### Guarantor

PHOTRONICS, INC

By:

**Administrative Agent**

JPMORGAN CHASE BANK (CHINA) COMPANY LIMITED, SHANGHAI BRANCH, for and on behalf of itself and each other Finance Party

By:

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**Schedule 1.1**

**Consolidated EBITDA/Net Income**

See attached.

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**Schedule 7.1**

**Existing Indebtedness**

<b>US DEBT</b>	<b>CURRENCY</b>	<b>USD BALANCE</b>	<b>INTEREST RATE</b>	<b>MATURITY DATE</b>
Convertible Debt	USD	\$150,000,000	2 ¼ %	April 15, 2008

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**Schedule 7.2**

**Existing Liens**

PHOTRONICS, INC. (as of 4/30/07)

<b>File Date</b>	<b>File #:</b>	<b>Type</b>	<b>Lienholder</b>	<b>Subject</b>
7/29/03	0002217285	UCC-1	CitiCapital Technology Finance Inc.	(Oracle Equipment)
8/4/03	0002217700	UCC-1	CitiCapital Technology Finance Inc.	(Oracle Equipment)
6/17/04	0002273831	UCC-1	CitiCapital Technology Finance Inc.	(Oracle Equipment)
6/18/04	0002274294	UCC-1	CitiCapital Technology Finance Inc.	(Oracle Equipment)
5/2/06	0002390284	UCC-1	IOS Capital	(IKON Copier Lease)
12/22/06	0002431461	UCC-1	IOS Capital	(IKON Copier Lease)
3/29/07	0002447168	UCC-1	IOS Capital	(IKON Copier Lease)

*A complaint was filed against Photronics, Inc. in the Superior Court of Arizona in connection with a long term lease agreement that Photronics Arizona executed. Photronics, Inc. guaranteed Photronics Arizona's performance of the lease. The Complaint alleges that Photronics Inc. and Photronics Arizona are in default of the lease for failure to pay to the rent required under the lease. Photronics has answered the Complaint and continues to contest this matter in good faith. Photronics has established a reserve for this claim.*

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**Schedule 7.4**

**Existing Investments, Loans, Advances, Guarantees and Acquisitions**

See attached.

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**Schedule 7.7**

## Transactions with Affiliates

The Guarantor is a party to a long-term service contract entered into in 2002 pursuant to which it outsources the administration of its global wide area network and related communication services to RagingWire Enterprise Solutions, Inc. ("RagingWire"), a supplier of secure data center facilities and managed information technology services, located in Sacramento, California. Constantine Macricostas is a founder, majority shareholder and the Chairman of the Board of Directors of RagingWire, and his son, George Macricostas is the director, Chief Executive Officer, Vice Chairman of the Board, and a founder of RagingWire. Since 2002, based on the Guarantor's needs, it has entered into additional contracts with RagingWire ranging from 12 months to 52 months to provide additional services. The decision to pursue an outsourced solution to satisfy the Guarantor's network and communications needs was made by management, and the Guarantor obtained bids from and reviewed the service offerings of six other global and regional vendors before RagingWire was selected as the most favorably priced solution for its service offerings. During the 2006 fiscal year, the Guarantor incurred expenses of \$4.3 million for services provided to the Guarantor by RagingWire. In fiscal 2006, the Guarantor signed a new 3 year service contract with Raging Wire for \$2.5 million per year.

Dr. Soo Hong Jeong, Chief Operating Officer of the Guarantor, who also serves as the Chairman, Chief Executive Officer and President of the Guarantor's majority held subsidiary in Korea, PK, Ltd. ("PKL") is also a significant shareholder of S&S Tech which serves as a supplier of photomask blanks to the Guarantor. In fiscal 2006, the Guarantor purchased \$16.8 million of photomask blanks from S&S Tech.

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## Schedule 7.8

### Existing Restrictions

None.

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## EXHIBIT 31.1

I, Michael J. Luttati, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Photronics, 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/ MICHAEL J. LUTTATI

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Michael J. Luttati  
Chief Executive Officer  
September 5, 2007

## EXHIBIT 31.2

I, Sean T. Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Photronics, 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  
September 5, 2007

**EXHIBIT 32.1**

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

I, Michael J. Luttati, 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 July 29, 2007 (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/ MICHAEL J. LUTTATI

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Michael J. Luttati  
Chief Executive Officer  
September 5, 2007

## EXHIBIT 32.2

### Section 1350 Certification of the Chief Financial Officer

I, Sean T. Smith, Chief Financial Officer of Photonics, 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 July 29, 2007 (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  
September 5, 2007