

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 April 30, 2006

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 of 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)*

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	Outstanding at June 2, 2006
<b>Common Stock, \$0.01 par value</b>	<b>41,432,901 Shares</b>

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 foreign 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; 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.

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**PHOTRONICS, INC.  
AND SUBSIDIARIES**

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**PART I. FINANCIAL INFORMATION****Item 1. CONSOLIDATED CONDENSED FINANCIAL STATEMENTS****PHOTRONICS, INC. AND SUBSIDIARIES**

Condensed Consolidated Balance Sheets  
(in thousands, except per share amounts)  
(unaudited)

	<u>April 30, 2006</u>	<u>October 30, 2005</u>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$202,882	\$196,049
Short-term investments	76,984	90,600
Accounts receivable, net	76,891	70,006
Inventories	26,801	20,536
Other current assets	10,298	7,144
	<hr/>	<hr/>
Total current assets	393,856	384,335
Property, plant and equipment, net	445,804	412,429
Goodwill	133,813	136,334
Other assets	21,810	12,631
	<hr/>	<hr/>
	\$995,283	\$945,729
	<hr/>	<hr/>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of long-term debt	\$ 86,612	\$ 4,813
Accounts payable	44,773	42,923
Other accrued liabilities	40,447	36,042
	<hr/>	<hr/>
Total current liabilities	171,832	83,778
Long-term debt	162,287	238,949
Deferred income taxes and other liabilities	18,848	15,310
Minority interest	44,662	45,817
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, 41,405 shares issued and outstanding at April 30, 2006 and 41,304 shares issued and outstanding at October 30, 2005	414	413
Additional paid-in capital	375,836	374,326
Retained earnings	188,278	173,320
Accumulated other comprehensive income	33,296	13,850
Deferred compensation on restricted stock	(170)	(34)
	<hr/>	<hr/>
Total shareholders' equity	597,654	561,875
	<hr/>	<hr/>
	\$995,283	\$945,729
	<hr/>	<hr/>

See accompanying notes to condensed consolidated financial statements.

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

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>April 30, 2006</b>	<b>May 1, 2005</b>	<b>April 30, 2006</b>	<b>May 1, 2005</b>
Net sales	\$119,471	\$112,893	\$231,419	\$214,076
Costs and expenses:				
Cost of sales	77,663	74,457	153,428	143,640
Selling, general and administrative	15,726	13,521	30,914	26,239
Research and development	7,993	8,120	16,243	15,895
Consolidation, restructuring and related charges	11,426	-	11,426	-
Operating income	6,663	16,795	19,408	28,302
Other income (expense), net				
Interest expense	(3,229)	(2,766)	(6,014)	(5,487)
Investment and other income, net	7,021	709	11,578	406
Income before income taxes and minority interest	10,455	14,738	24,972	23,221
Income tax provision	3,814	2,617	7,632	4,452
Income before minority interest	6,641	12,121	17,340	18,769
Minority interest	(1,376)	(1,547)	(2,382)	(3,650)
Net income	\$5,265	\$10,574	\$14,958	\$15,119
Earnings per share:				
Basic	\$0.13	\$0.32	\$0.36	\$0.46
Diluted	\$0.12	\$0.28	\$0.34	\$0.41
Weighted average number of common shares outstanding:				
Basic	41,334	32,817	41,325	32,760
Diluted	50,987	42,398	50,966	42,346

*See accompanying notes to condensed consolidated financial statements.*

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

	<b>Six Months Ended</b>	
	<b>April 30, 2006</b>	<b>May 1, 2005</b>
Cash flows from operating activities:		
Net income	\$ 14,958	\$15,119
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	44,921	42,967
Consolidation, restructuring and related charges	11,426	-
Changes in assets and liabilities:		
Accounts receivable	(3,527)	6,773
Inventories	(5,436)	(1,460)
Other current assets	(3,532)	(2,041)
Accounts payable and other	(8,655)	3,250
Net cash provided by operating activities	50,155	64,608
Cash flows from investing activities:		
Purchases of property, plant and equipment	(56,572)	(38,091)
Acquisition of additional interest in PK Ltd.	(8,432)	(40,350)
Proceeds from the sale of short-term investments and other	47,877	54,019
Purchases of short-term investments	(32,819)	(37,895)
Net cash used in investing activities	(49,946)	(62,317)
Cash flows from financing activities:		
Proceeds from (repayments of) long-term debt, net	4,564	(56,193)
Proceeds from issuance of common stock	730	2,199
Net cash provided by (used in) financing activities	5,294	(53,994)
Effect of exchange rate changes on cash flows	1,330	771
Net increase (decrease) in cash and cash equivalents	6,833	(50,932)
Cash and cash equivalents at beginning of period	196,049	142,300
Cash and cash equivalents at end of period	\$202,882	\$91,368
Change in accrual for purchases of property, plant and equipment	\$ 8,993	\$(6,319)

*See accompanying notes to condensed consolidated financial statements.*

**PHOTRONICS, INC. AND SUBSIDIARIES**  
**Notes to Consolidated Condensed Financial Statements**  
**Three and Six Months Ended April 30, 2006 and May 1, 2005**  
**(unaudited)**

**NOTE 1 - BASIS OF FINANCIAL STATEMENT PRESENTATION AND STOCK-BASED COMPENSATION**

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 nine manufacturing facilities, two of which are located in the United States, three in Europe, two in Taiwan, one each in Korea and Singapore.

During the year ended October 30, 2005, the Company determined that acquisitions of property, plant and equipment on account, which were previously reported as a component of changes in operating assets and liabilities and purchases of property, plant and equipment, should not have been reported in the statements of cash flows. The Company's financial statements for the six months ended May 1, 2005 have been revised to reflect an increase in cash flows provided by operating activities with a corresponding increase in cash flows used in investing activities of \$6.3 million. Purchases of property, plant and equipment acquired on account have now been presented as supplemental disclosure of non-cash items. This revision has no effect on net income or the amount of cash and cash equivalents reported.

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 29, 2006. Certain amounts in the condensed consolidated financial statements for prior periods have been reclassified to conform to the current presentation. 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 30, 2005.

Stock-Based Compensation

In December 2004, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 123(R), "Share-Based Payment." This pronouncement amends SFAS No. 123, "Accounting for Stock-Based Compensation," as amended by SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure, an Amendment of FASB Statement No. 123," and supersedes Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees." SFAS No. 123(R) requires that companies account for awards of equity instruments under the fair value method of accounting and recognize such amounts in their statements of operations. The Company adopted SFAS No. 123(R) on October 31, 2005, using the modified prospective method, and in connection therewith compensation expense is recognized in its consolidated statements of income for the three and six months ended April 30, 2006, over the service period that the awards are expected to vest. The Company recognizes expense for all stock-based compensation with graded vesting granted on or after October 31, 2005 on a straight-line basis over the vesting period of the entire award. For awards with graded vesting granted prior to October 31, 2005, the Company continues to recognize compensation cost over the vesting period following accelerated recognition as if each underlying vesting date represented a separate award. Stock-based compensation expense includes the estimated effects of forfeitures, and estimates of forfeitures will be adjusted over the requisite service period to the extent actual forfeitures differ, or are expected to differ from such estimates. Changes in estimated forfeitures will be recognized in the period of change and will also impact the amount of expense to be recognized in future periods.

Prior to October 31, 2005, the Company recorded stock-based compensation in accordance with the provisions of APB Opinion 25. The Company estimated the fair value of stock option awards in accordance with SFAS No. 123, "Accounting for Stock-Based Compensation," and disclosed the resulting estimated effect on net income on a pro forma basis. Forfeitures of employee awards were provided in the pro forma effects as they occurred.

As a result of adopting SFAS 123(R) on October 31, 2005, the Company's income before income taxes and net income for the three and six months ended April 30, 2006 is \$0.2 million and \$0.5 million, respectively, or \$0.01 per share less for the six months ended April 30, 2006, than if it had continued to account for share based compensation under APB Opinion No. 25. There has not been any change in the statement of cash flows as a result of adoption of SFAS 123(R). As of April 30, 2006, the Company had 1,870,129 share options that were vested and currently exercisable, with a weighted-average exercise price of \$19.51, aggregate intrinsic value of \$36.5 million and a weighted average remaining contractual term of 6.5 years. There were 2,089,333 options outstanding at April 30, 2006, with a weighted average exercise price of \$18.78 and a weighted average remaining life of 6.7 years. On April 30, 2006 the total compensation cost related to non-vested awards not yet recognized is approximately \$1.4 million, with a weighted average expected amortization period of 2.3 years. No equity awards were settled in cash during the periods presented.

The following table illustrates the effect on net income and earnings per share if the Company had applied the fair value recognition provisions of FASB Statement No. 123, "Accounting for Stock-Based Compensation," to stock-based employee compensation for the three and six months ended May 1, 2005 (in thousands):

	<b>Period Ended May 1, 2005</b>	
	<b>Three Months</b>	<b>Six Months</b>
Net income	\$10,574	\$15,119
Add: Stock-based employee compensation expense included in reported net income, net of related tax effects	75	75

Less: Total stock-based compensation expense determined under fair value-based method for all awards, net of related tax effects	(2,600)	(3,096)
Pro forma net income	\$ 8,049	\$12,098
Basic earnings per share:		
As reported	\$0.32	\$0.46
Pro forma	\$0.25	\$0.37
Diluted earnings per share:		
As reported	\$0.28	\$0.41
Pro forma	\$0.22	\$0.34

During the three and six month periods ended April 30, 2006, the Company incurred approximately \$0.4 million and \$0.8 million, respectively, in expense for its stock-based compensation plans, substantially all of which is in selling, general and administrative expenses. Of these amounts, approximately \$0.2 million and \$0.5 million, respectively, is attributed to adopting SFAS No. 123(R), and approximately \$0.2 million and \$0.3 million, respectively, relates to restricted stock awards.

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The fair value of option and ESPP grants are estimated using the Black Scholes option pricing model. The fair value and weighted average assumptions used for the six months ended April 30, 2006 and May 1, 2005 are noted in the following table. 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. No stock-based compensation was granted during the three month period ended April 30, 2006.

	Stock Options		ESPP Rights	
	Six Months Ended		Six Months Ended	
	April 30, 2006	May 1, 2005	April 30, 2006	May 1, 2005
Weighted average fair value	\$8.01	\$6.53	\$7.99	\$5.76
Volatility	58%	60%	61%	60%
Risk-free rate of return	4.36%	3.65%	3.38%	1.99%
Dividend yield	0.0%	0.0%	0.0%	0.0%
Weighted average life	4.8 years	3.1 years	1.0 year	1.0 year

The Company has several stock-based compensation plans under which incentive and non-qualified stock options and restricted shares may be granted from shares authorized but unissued, treasury shares or shares reacquired by the Company. The plans permit the grant of a maximum of 4.7 million share options and shares to employees and outside directors. Option awards generally vest in one to four years, and have a 10-year contractual term. The vesting period for restricted shares has ranged from less than one to four years. All incentive and non-qualified stock option grants must have an exercise price equal to the market value of the underlying common stock on the date of grant. The Company also has an Employee Stock Purchase Plan (ESPP), which permits employees to purchase a maximum of 900,000 shares. The ESPP shares are granted at 85% of the lower of the fair market value at the commencement of the offering or the last day of the payroll payment period. The vesting period for the ESPP plan is approximately one year. Under the ESPP, 709,829 shares were issued as of April 30, 2006, and up to 51,082 shares are subject to outstanding subscriptions. The Company also grants restricted stock awards annually. The restrictions on these awards lapse over a service period ranging from less than one to four years. Restricted stock awards of 60,000 and 24,000 shares were awarded during the six month periods ended April 30, 2006 and May 1, 2005, respectively, at market prices per share of \$15.11 and \$16.65, respectively. Compensation expense is recognized over the period of restrictions. A summary of option activity under the option plans, including restricted stock, as of April 30, 2006 and changes during the six months then ended follows:

Shares	Weighted Average Exercise Price Per Share
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<b>Balance at October 31, 2005</b>	2,154,670	\$19.35
Granted	70,750	2.30
Exercised	(28,191)	10.67
Cancelled	(73,977)	23.81
	<hr/>	
<b>Balance at January 29, 2006</b>	2,123,252	18.74
Granted	-	-
Exercised	(21,507)	13.69
Cancelled	(12,412)	22.12
	<hr/>	
<b>Balance at April 30, 2006</b>	<u>2,089,333</u>	18.78

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#### Range of Exercise Prices

	<u>\$0.00 - \$12.99</u>	<u>\$13.00 - \$22.73</u>	<u>\$22.74 - \$32.47</u>
<b>Outstanding:</b>			
Number of options	250,655	1,188,509	650,169
Weighted average remaining years	5.8	6.9	6.7
Weighted average exercise prices	\$9.10	\$17.01	\$25.73
<b>Exercisable:</b>			
Number of options	180,442	1,040,994	648,693
Weighted average exercise prices	\$11.51	\$17.03	\$25.72

#### NOTE 2 - COMPREHENSIVE INCOME

The following table summarizes comprehensive income for the three and six months ended April 30, 2006 and May 1, 2005 (in thousands):

	<u>Three Months Ended</u>		<u>Six Months Ended</u>	
	<u>April 30, 2006</u>	<u>May 1, 2005</u>	<u>April 30, 2006</u>	<u>May 1, 2005</u>
Net income	\$5,265	\$10,574	\$14,958	\$15,119
Other comprehensive income:				
Change in unrealized net gains on investments, net of tax	(1,331)	(957)	(1,228)	(382)
Foreign currency translation adjustments	4,650	4,355	20,674	10,532
	<hr/>	<hr/>	<hr/>	<hr/>
	3,319	3,398	19,446	10,150
	<hr/>	<hr/>	<hr/>	<hr/>
Total comprehensive income	<u>\$8,584</u>	<u>\$13,972</u>	<u>\$34,404</u>	<u>\$25,269</u>

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#### NOTE 3 - EARNINGS PER SHARE

The calculation of basic earnings per common share and diluted earnings per common share is presented below (in thousands, except per share amounts):



	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>April 30, 2006</b>	<b>May 1, 2005</b>	<b>April 30, 2006</b>	<b>May 1, 2005</b>
Net income	\$5,265	\$10,574	\$14,958	\$15,119
Effect of dilutive securities:				
Interest expense on convertible notes, net of related tax effect	1,086	1,086	2,171	2,171
Earnings for diluted earnings per share	\$6,351	\$11,660	\$17,129	\$17,290
Weighted average common shares computations:				
Weighted average common shares used for basic earnings per share	41,334	32,817	41,325	32,760
Effect of dilutive securities:				
Convertible notes	9,441	9,441	9,441	9,441
Employee stock options	212	140	200	145
Dilutive potential common shares	9,653	9,581	9,641	9,586
Weighted average common shares used for diluted earnings per share	50,987	42,398	50,966	42,346
Basic earnings per share	\$0.13	\$0.32	\$0.36	\$0.46
Diluted earnings per share	\$0.12	\$0.28	\$0.34	\$0.41

The effect of the potential conversion of some of the Company's convertible subordinated notes and the exercise of certain stock options was 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.

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>April 30, 2006</b>	<b>May 1, 2005</b>	<b>April 30, 2006</b>	<b>May 1, 2005</b>
Convertible notes	2,354	2,922	2,354	3,004
Employee stock options	911	817	1,012	955
Total potentially dilutive shares excluded	3,265	3,739	3,366	3,959

#### NOTE 4 - INVESTMENTS

Short-term investments at April 30, 2006 and October 30, 2005 consist of available-for-sale fixed income and marketable equity securities. Long-term investments of \$1,818 at April 30, 2006 and \$1,537 at October 30, 2005 included in "Other Assets" primarily consist of available-for-sale equity securities, where fair values were determined based upon quoted market prices. For investments with no quoted market price, the estimated fair value is based upon the financial condition and the operating results and projections of the investee and is considered to approximate cost.

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Available-for-sale investments at April 30, 2006 were as follows (in thousands):

	<b>Cost Basis</b>	<b>Gross Unrealized Gains</b>	<b>Gross Unrealized Losses</b>	<b>Estimated Fair Value</b>
Short-term debt investments:				
Corporate bonds	\$ 1,815	\$ 11	\$ (5)	\$ 1,821
U.S. government and agency securities	13,185	-	(162)	13,023

Auction rate securities	25,000	-	-	25,000
Foreign bond funds and other	37,532	78	(470)	37,140
Total short-term investments	77,532	89	(637)	76,984
Long-term equity investments	134	1,684	-	1,818
	<u>\$77,666</u>	<u>\$1,773</u>	<u>\$(637)</u>	<u>\$78,802</u>

Available-for-sale investments at October 30, 2005 were as follows (in thousands):

	<u>Cost Basis</u>	<u>Gross Unrealized Gains</u>	<u>Gross Unrealized Losses</u>	<u>Estimated Fair Value</u>
Short-term debt investments:				
Corporate bonds	\$10,655	\$ 27	\$ (27)	\$10,655
U.S. government and agency securities	14,113	-	(127)	13,986
Auction rate securities	20,000	-	-	20,000
Foreign bond funds and other	39,442	350	(213)	39,579
	<u>84,210</u>	<u>377</u>	<u>(367)</u>	<u>84,220</u>
Short-term equity fund	5,000	1,380	-	6,380
Total short-term investments	89,210	1,757	(367)	90,600
Long-term equity investments	134	1,403	-	1,537
	<u>\$89,344</u>	<u>\$3,160</u>	<u>\$(367)</u>	<u>\$92,137</u>

The maturities of available-for-sale short-term debt investments as of April 30, 2006 were as follows (in thousands):

	<u>Cost Basis</u>	<u>Estimated Fair Value</u>
Due in one year or less	\$46,779	\$46,462
Due after one year through five years	5,753	5,522
Due after five years through nine years	-	-
Due after ten years	25,000	25,000
	<u>\$77,532</u>	<u>\$76,984</u>

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In the six month periods ended April 30, 2006 and May 1, 2005, the Company sold \$47.2 million and \$54.5 million, respectively, of short-term debt investments.

#### NOTE 5 - RESTRUCTURING

In March of 2006, the Company committed to and began implementing a restructuring program to streamline its operating infrastructure in North America. The actions include the closing of its Austin, Texas manufacturing facility and ceasing its Austin, Texas research and development activities. The Company recorded a total restructure charge of \$11.4 million or \$0.22 per diluted share in the second quarter of 2006, primarily comprised of facility and equipment impairments at the Austin facility. This restructure charge includes the following:

	<u>Cash</u>	<u>Non Cash</u>	<u>Total</u>
Asset impairments	\$ -	\$8,715	\$ 8,715
Termination benefits	1,256	-	1,256
Lease and other	1,154	301	1,455
	<u>\$2,410</u>	<u>\$9,016</u>	<u>\$11,426</u>

The asset impairments relate primarily to the write-down of the building and related improvements to the Austin, Texas facility and certain machinery and equipment. The termination benefits are comprised of severance-related payments for employees terminated in connection with this restructuring program. Lease and other restructuring costs are primarily related to planned settlement of existing lease obligations.

As of April 30, 2006, the Company expects to incur additional restructuring costs over the next two quarters as follows:

	<u>Estimate</u>
Equipment costs	\$1,500 - \$3,000
Termination benefits	800 - 1,000
Other, including equipment redeployment	1,700 - 3,000
	<u>\$4,000 - \$7,000</u>

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The following tables set forth the Company's restructuring reserve as of April 30, 2006 and reflects the activity affecting the reserve for the three and six months then ended (in thousands):

	<b>Three Months Ended April 30, 2006</b>			
	<u>January 29, 2006</u>	<u>Charges</u>	<u>Credits</u>	<u>April 30, 2006</u>
Manufacturing capacity reduction and other	\$ -	\$ 9,016	\$(8,714)	\$ 302
Workforce reductions	-	1,256	(176)	1,080
Leases and other	1,911	1,154	(434)	2,631
Total	<u>\$1,911</u>	<u>\$11,426</u>	<u>\$(9,324)</u>	<u>\$4,013</u>

	<b>Six Months Ended April 30, 2006</b>			
	<u>October 30, 2005</u>	<u>Charges</u>	<u>Credits</u>	<u>April 30, 2006</u>
Manufacturing capacity reduction and other	\$ -	\$ 9,016	\$ (8,714)	\$ 302
Workforce reductions	-	1,256	(176)	1,080
Leases and other	2,245	1,504	(1,118)	2,631
Total	<u>\$2,245</u>	<u>\$11,776</u>	<u>\$(10,008)</u>	<u>\$4,013</u>

The following tables set forth the Company's restructuring reserve as of May 1, 2005 and reflects the activity affecting the reserves for the three and six months then ended (in thousands):

	<b>Three Months Ended May 1, 2005</b>			<b>May 1, 2005</b>
	<b>January 30, 2005</b>	<b>Charges</b>	<b>Credits</b>	
Leases and other	\$4,086	\$ -	\$(604)	\$3,482

	<b>Six Months Ended May 1, 2005</b>			<b>May 1, 2005</b>
	<b>October 31, 2004</b>	<b>Charges</b>	<b>Credits</b>	
Leases and other	\$4,717	\$ -	\$(1,235)	\$3,482

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#### NOTE 6 - 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 six months ended April 30, 2006 and May 1, 2005 were as follows (in thousands):

	<b>Three Months</b>		<b>Six Months</b>		<b>As of April 30, 2006</b>
	<b>Net Sales</b>	<b>Operating Income (Loss)</b>	<b>Net Sales</b>	<b>Operating Income (Loss)</b>	<b>Total Assets</b>
<b>April 30, 2006:</b>					
North America	\$ 34,239	\$(12,161)	\$ 65,046	\$(17,557)	\$445,060
Europe	19,829	4,397	39,812	9,118	109,763
Asia	65,403	14,427	126,561	27,847	440,460
	<u>\$119,471</u>	<u>\$ 6,663</u>	<u>\$231,419</u>	<u>\$ 19,408</u>	<u>\$995,283</u>

	<b>Three Months</b>		<b>Six Months</b>		<b>As of May 1, 2005</b>
	<b>Net Sales</b>	<b>Operating Income (Loss)</b>	<b>Net Sales</b>	<b>Operating Income (Loss)</b>	<b>Total Assets</b>
<b>May 1, 2005:</b>					
North America	\$ 35,337	\$ (422)	\$ 67,363	\$(1,945)	\$374,947
Europe	20,148	3,276	37,861	4,896	116,270
Asia	57,408	13,941	108,852	25,351	340,914
	<u>\$112,893</u>	<u>\$16,795</u>	<u>\$214,076</u>	<u>\$28,302</u>	<u>\$832,131</u>

## **NOTE 7 - 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 due to the Company's reduced tax rates in certain Asian jurisdictions and valuation allowances placed on certain deferred tax assets generated by net operating loss carry forwards.

On October 22, 2004, the American Jobs Creation Act (AJCA) was signed into law. The AJCA creates a temporary incentive for United States multinationals to repatriate accumulated income earned outside of the United States at an effective rate of 5.25%. The Company has evaluated the effects of the repatriation provision and has elected not to avail itself of the AJCA's repatriation incentives.

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## **NOTE 8 - ACQUISITION OF ADDITIONAL SHARES OF PK LTD.**

During the first quarter of fiscal 2006, Photronics invested \$8.4 million to purchase additional shares of PK Ltd. (PKL), its non-wholly owned subsidiary in Korea. This transaction increased the Company's ownership in PKL from 96.5% as of October 30, 2005 to 99.7% as of April 30, 2006. During 2005, the Company invested \$58.3 million to purchase additional shares of PKL which increased the Company's ownership in PKL from 75% at October 31, 2004 to 96.5% at October 30, 2005. The Company has completed its analysis of fair value attributes of the additional ownership through the use of independent appraisals and management estimates, and has reallocated values that were preliminarily allocated to goodwill to PKL's customer relationships and patents which are included in "Other Assets" for \$7.2 million and \$0.2 million, respectively, both of which are being amortized over 10 years.

## **NOTE 9 - SUBSEQUENT EVENT - JOINT VENTURE, TECHNOLOGY LICENSE AND OTHER AGREEMENTS WITH MICRON TECHNOLOGY, INC.**

On May 5, 2006, Photronics and Micron Technology, Inc. ("Micron") entered into a joint venture known as MP Mask Technology Center, LLC ("MP Mask"). The joint venture will develop and produce photomasks for leading-edge and advanced next generation semiconductors. As part of the formation of the joint venture, Micron contributed its existing photomask technology center located at its Boise headquarters to MP Mask and Photronics paid Micron \$120 million on the date of closing and will pay Micron an additional \$7.5 million on each of the first and second anniversaries of the closing date in exchange for a 49.99% interest in MP Mask and a license for photomask technology of Micron and certain supply agreements.

Photronics and Micron also intend to build an independent state-of-the-art nanofab facility (the "New NanoFab") in Boise, Idaho, for volume production of advanced technology photomasks. The New NanoFab will be constructed by Micron, equipped and operated by Photronics and subject to a lease purchase in favor of Photronics. Photronics' total investment in the purchase and equipping of the New NanoFab is expected to fall within a range of \$100 million to \$150 million and may include redeployment of some existing Photronics assets. This New NanoFab is expected to be completed and to begin qualification by the end of 2007 or the first quarter of 2008.

Photronics is in the process of analyzing the fair value attributes of the total \$135 million consideration paid under these agreements.

## **NOTE 10 - OTHER RECENT ACCOUNTING PRONOUNCEMENTS**

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments." SFAS No. 155 permits fair value re-measurement for any hybrid financial instruments that contains an embedded derivative that otherwise would require bifurcation. As of April 30, 2006, the Company did not have any hybrid financial instruments subject to the fair value election under SFAS No. 155. This statement is effective for all financial instruments acquired or issued after the beginning of an entity's first fiscal year that begins after September 2006.

In November 2005, the FASB issued SFAS 115-1 and SFAS 124-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments." This pronouncement provides guidance on determining if an investment is considered to be impaired, if the impairment is other-than-temporary, and the measurement of impairment losses. It also includes accounting considerations subsequent to the recognition of an other-than-temporary impairment and requires certain disclosures about unrealized losses that have not been recognized as other-than-temporary impairments. The Company adopted this pronouncement early and it had no impact on its financial position, results of operations or cash flows.

In March 2005, the FASB issued FASB Interpretation No. 47, "Accounting for Conditional Asset Retirement Obligations" (FIN 47). FIN 47 clarifies that a conditional asset retirement obligation, as used in SFAS No. 143, "Accounting for Asset Retirement Obligations," refers to a legal obligation to perform an asset retirement activity in which the timing and/or method of the settlement are conditional on a future event that may or may not be within the control of the entity. The statement is effective for companies no later than their first fiscal year ending after December 15, 2005. The Company does not expect that FIN 47 will have a significant effect on its consolidated financial statements and is evaluating the timing of its adoption.

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## 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 2005 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 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. The semiconductor industry had been in a downturn from 2001 until the end of 2003, which had a significant impact on the net sales and operating results of a majority of those companies in the industry.

As of April 2006, state-of-the-art for semiconductor masks is considered to be 65 nanometer and Generation 6 - Generation 7 process technology, while 90 nanometer is being moved into volume production. 130 and 180 nanometer and Generation 3 through Generation 5 process technology for FPDs constitute the majority of high performance designs being fabricated in volume today. The Company expects there to be an increase in 90 nanometer designs moving to wafer fabrication throughout fiscal 2006 and believes it is well positioned to service an increasing volume of this business through investments in manufacturing process and technology in the global regions where its customers are located. In 2004, 2005 and through April 2006, the Company experienced growth in demand for FPD photomasks, which it currently supplies from its existing facility in Korea and its recently constructed new facility in Taichung, Taiwan. The Company is in the advanced stages of construction of a new photomask facility in Shanghai, China.

The photomask industry has been, and is expected to continue to be, characterized by technological change and evolving industry standards. In order to remain competitive, the Company will be required to continually anticipate, respond to and utilize changing technologies. In particular, the Company believes that as semiconductor geometries continue to become smaller it will be required to manufacture complex optically enhanced reticles, including optical proximity correction and phase-shift photomasks. Additionally, demand for photomasks has been, and could in the future be adversely affected by changes in methods of semiconductor manufacturing (which could affect the type or quantity of photomasks utilized), such as changes in semiconductor demand that favor field programmable gate arrays and other semiconductor designs that replace application-specific integrated circuits. Through the second quarter of fiscal 2006, the Company had not experienced a significant loss of revenue as a result of alternative semiconductor design methodologies. Additionally, increased market acceptance of alternative methods of transferring circuit designs onto semiconductor wafers, such as direct-write lithography, could reduce or eliminate the need for photomasks. Through the second quarter of fiscal 2006, direct-write lithography has not been proven to be a commercially viable alternative to photomasks, as it is considered too slow for high volume semiconductor wafer production. However, should direct-write or any other alternative methods of transferring integrated circuit designs to semiconductor wafers be done without the use of photomasks, the Company's business and results of operations would be materially adversely affected. If the Company is unable to anticipate, respond to, or utilize these or other changing technologies, due to resource, technological or other constraints, its business and results of operations could be materially adversely affected.

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Both revenues and costs have been affected by the increased demand for high-end technology photomasks that require more advanced manufacturing capabilities but generally command higher average selling prices. To meet the technological demands of its customers and position the Company for future growth, the Company continues to make substantial investments in high-end manufacturing capability both at existing and new facilities. The Company's cash payments for capital expenditures for new facilities and equipment to support its customers' requirements for high technology products were an aggregate of approximately \$246 million for the three fiscal years ended October 30, 2005, plus \$56.6 million during the first six months of fiscal 2006, resulting in significant increases in operating expenses. Based on the anticipated technological changes in the industry, the Company expects these trends to continue. The Company anticipates capital expenditures to be in the range of \$100 million to \$120 million for the fiscal year ending October 29, 2006.

The manufacture of photomasks for use in fabricating ICs and other related products built using comparable photomask-based process technologies has been, and continues to be, capital intensive, based upon the need to maintain a technology-based infrastructure. The Company's integrated global manufacturing network and employees, which consist of nine sites, represent a significant portion of its fixed operating cost base. Should sales volumes decrease based upon the flow of design releases from the Company's customers, the Company may have excess and underutilized production capacity that could significantly impact operating margins.

As of April 2006, the vast majority of photomasks produced for the semiconductor industry employ geometries of 130 nanometers or larger. In the FPD market, a majority of photomasks produced are to support Generation 3 to Generation 5 processes. At these technologies, the Company can produce full lines of photomasks and there is no significant technology employed by the Company's competitors that is not available to the Company. Recently, a limited amount of semiconductor fabrication has begun utilizing 90

nanometer and Generation 6 and Generation 7 processes. The Company is currently capable of producing a broad range of photomasks at still smaller geometries, and has begun accelerating its efforts to support the development and production of photomasks for both the 65 nanometer and 45 nanometer technology nodes in semiconductors and Generation 8 in FPD. The Company's yields on FPD photomasks compare favorably with its competitors, however, as is typical of industries in the midst of technological change, some of the Company's IC photomask competitors may be able to achieve higher manufacturing yields than the Company when producing these smaller geometry photomasks, in part because these competitors may have completed more cycles of learning than the Company in this area and in part because of the Company's need to replicate production of these complex photomasks at its four advanced technology locations worldwide.

On May 5, 2006, Photronics and Micron Technology, Inc. ("Micron") entered into a joint venture known as MP Mask Technology Center, LLC ("MP Mask"). The joint venture will develop and produce photomasks for leading-edge and advanced next generation semiconductors. As part of the formation of the joint venture, Micron contributed its existing photomask technology center located at its Boise headquarters to MP Mask and Photronics paid Micron \$120 million on the date of closing and will pay Micron an additional \$7.5 million on each of the first and second anniversaries of the closing date in exchange for a 49.99% interest in MP Mask and a license for photomask technology of Micron and certain supply agreements.

Photronics and Micron also intend to build an independent state-of-the-art nanofab facility (the "New NanoFab") in Boise, Idaho, for volume production of advanced technology photomasks. The New NanoFab will be constructed by Micron, equipped and operated by Photronics and subject to a lease purchase in favor of Photronics. Photronics' total investment in the purchase and equipping of the New NanoFab is expected to fall within a range of \$100 million to \$150 million and may include redeployment of some existing Photronics assets. This New NanoFab is expected to be completed and to begin qualification by the end of calendar 2007 or first quarter 2008.

In March of 2006, the Company committed to and began implementing a restructuring program to streamline its operating infrastructure in North America. The actions include the announced closing of the Austin, Texas manufacturing and R&D center and the relocation of the development and manufacturing work to other facilities within the global network. The Company recorded a total restructure charge of \$11.4 million or \$0.22 per diluted share in the second quarter of 2006. The Company anticipates the total restructure charge will be in the range of \$15 to \$18 million.

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### Material Changes in Results of Operations Three and Six Months ended April 30, 2006 versus May 1, 2005

Note: All of the following tabular comparisons, unless otherwise indicated, are for the quarters ended April 30, 2006 (Q2 2006) and May 1, 2005 (Q2 2005) and for the six months ended April 30, 2006 (YTD 2006) and May 1, 2005 (YTD 2005) in thousands:

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

	Three Months Ended		Six Months Ended	
	Q2 2006	Q2 2005	YTD 2006	YTD 2005
Net sales	100%	100%	100%	100%
Cost of sales	65.0	66.0	66.3	67.1
Gross margin	35.0	34.0	33.7	32.9
Selling, general and administrative expenses	13.2	12.0	13.4	12.3
Research and development expenses	6.7	7.1	7.0	7.4
Consolidation, restructuring and related charges	9.5	-	4.9	-
Operating income	5.6	14.9	8.4	13.2
Other income (expense), net	3.2	(1.8)	2.4	(2.4)
Income before income taxes and minority interest	8.8	13.1	10.8	10.8
Income tax provision	3.2	2.3	3.3	2.1
Minority interest	(1.2)	(1.4)	(1.0)	(1.6)
Net income	4.4%	9.4%	6.5%	7.1%

## Net Sales

Three Months Ended			Six Months Ended		
Q2 2006	Q2 2005	Percent Change	YTD 2006	YTD 2005	Percent Change

Total net sales	\$119.5	\$112.9	5.8%	\$231.4	\$214.1	8.1%
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Net sales for the three months ended April 30, 2006 increased 5.8% to \$119.5 million as compared to \$112.9 million for the three months ended May 1, 2005, and increased 8.1% to \$231.4 million for the six months ended April 30, 2006 as compared to the first six months of fiscal 2005. The increase is primarily related to improved demand for high-end technology applications, which typically have higher average selling prices, for both IC and FPD photomasks. High-end photomask applications include mask sets for semiconductor designs at and below 130nm for ICs, and for FPD products using G6 and above technologies. By geographic area, for the three months ended April 30, 2006, as compared to the same prior year period, net sales in Asia increased \$8.0 million or 13.9%, North American sales decreased \$(1.1) million or (3.1%), and European sales decreased \$(0.3) million or (1.6%). By geographic area, for the six months ended April 30, 2006, as compared to the same prior year period, net sales in Asia increased \$17.7 million or 16.3%, North American sales decreased \$(2.3) million or (3.4%), and European sales increased \$2.0 million or 5.2%.

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## Gross Margin

Three Months Ended			Six Months Ended		
Q2 2006	Q2 2005	Percent Change	YTD 2006	YTD 2005	Percent Change

Gross margin	\$41.8	\$38.4	8.8%	\$78.0	\$70.4	10.7%
Percentage to sales	35.0%	34.0%		33.7%	32.9%	

Gross margin improved to 35.0% of net sales for the three months ended April 30, 2006 and 33.7% for the six months ended April 30, 2006 as compared to 34.0% and 32.9%, respectively, for the same prior year periods. The gross margin for the three and six months ended April 30, 2006 improved 100 basis points and 80 basis points, respectively, due to improved utilization of the Company's installed equipment base and increased sales of both IC and FPD products at high-end technology nodes. 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 2006 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 Expenses

Three Months Ended			Six Months Ended		
Q2 2006	Q2 2005	Percent Change	YTD 2006	YTD 2005	Percent Change

Selling, general and administrative expenses	\$15.7	\$13.5	16.3%	\$30.9	\$26.2	17.8%
Percentage to sales	13.2%	12.0%		13.4%	12.3%	

Selling, general and administrative expenses increased \$2.2 million and \$4.7 million for the three and six months ended April 30, 2006 respectively, as compared to the same prior year periods. The increases are primarily related to the Company's Asia expansion, which included start-up costs for the Company's Taiwan and China facilities, and to a lesser extent SFAS 123(R) expenses.

## Research and Development

Three Months Ended			Six Months Ended		
Q2 2006	Q2 2005	Percent Change	YTD 2006	YTD 2005	Percent Change



Research and development	\$8.0	\$8.1	(1.6%)	16.2	\$15.9	2.2%
Percentage to sales	6.7%	7.1%		7.0%	7.4%	

Research and development expenditures for the three and six months ended April 30, 2006 were essentially flat as compared to the same prior year periods, as certain research and development costs were minimally reduced in 2006 with the closure of the Austin facility. Research and development expenditures consist primarily of global development efforts relating to high-end process technologies for advanced sub wavelength reticle solutions at and below 65 nanometers and next generation FPD technologies.

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### Restructuring

	Three Months Ended			Six Months Ended		
	Q2 2006	Q2 2005	Percent Change	YTD 2006	YTD 2005	Percent Change

Restructuring	\$11.4	\$ -	N/A	\$11.4	\$ -	N/A
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In the second quarter of 2006, the Company implemented a plan to streamline its operating infrastructure in North America by ceasing the manufacture of photomasks at its Austin, Texas facility. The Company recorded a total restructuring charge of \$11.4 million in the second quarter of 2006, primarily comprised of an \$8.7 million writedown of facilities and equipment.

### Other Income (Expense), Net

	Three Months Ended		Six Months Ended	
	Q2 2006	Q2 2005	YTD 2006	YTD 2005
Interest expense	\$(3.2)	\$(2.8)	\$(6.0)	\$(5.5)
Investment and other income, net	7.0	0.7	11.6	0.4
Other income (expense), net	\$ 3.8	\$(2.1)	\$5.6	\$(5.1)

Interest expense increased for the three and six months ended April 30, 2006 as compared to the same prior year periods due to increases in interest rates as the Company's interest rate swap contract effectively converted \$100 million of its 4.75% fixed rate convertible subordinated notes to a variable rate. Investment and other income (expense), net, for the three and six months ended April 30, 2006, increased compared to the three and six months ended May 1, 2005, due to foreign currency transaction gains, gains on the sale of certain investments, and increased investment income. Further, investment and other income, net, for the three and six months ended May 1, 2005 includes an early extinguishment charge of \$0.2 million and \$1.2 million, respectively, relating to the redemption of the Company's 4.75% convertible subordinated notes.

### Provision for Income Taxes

The provision for income taxes for the three months ended April 30, 2006 was \$3.8 million compared to \$2.6 million for the three months ended May 1, 2005. For the six months ended April 30, 2006 the provision for incomes taxes was \$7.6 million compared to a provision of \$4.5 million for the six months ended May 1, 2005. The effective rate for the six months ended April 30, 2006 was 31% as compared to 19% for the comparable 2005 period. The effective tax rate is impacted by the Company's inability to record tax benefits on net operating losses generated in the U.S., tax holidays and credits. The Company's operations have followed the recent migration of semiconductor industry fabrication to Asia, where the Company operates in countries where it is accorded favorable tax jurisdictions. The Company is accorded a tax holiday in Taiwan, which will expire in 2006. In Korea, various investment tax credits have been utilized to reduce the Company's effective income tax rate.

On October 22, 2004, the American Jobs Creation Act (AJCA) was signed into law. The AJCA creates a temporary incentive for United States multinationals to repatriate accumulated income earned outside of the United States at an effective rate of 5.25%. The Company has evaluated the effects of the repatriation provision and has elected not to avail itself of the AJCA's repatriation incentives.

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### Minority Interest in Consolidated Subsidiaries

Minority interest expense of \$1.4 million and \$2.4 million for the three and six months ended April 30, 2006 and \$1.5 million and \$3.7 million for the three and six months ended May 1, 2005 reflects the minority interest in earnings of the Company's non-wholly owned subsidiaries in Taiwan and Korea. The Company's ownership in its subsidiary in Taiwan was approximately 58% at April 30, 2006 and October 30, 2005. During the first quarter of 2006, the Company increased its ownership in its subsidiary in Korea from 96.5% at October 30, 2005 to its current level of 99.7%, for an investment of \$8.4 million. The decreased minority interest expense for the three and six months ended April 30, 2006 as compared to the same prior year periods was due to the Company's increased ownership of its subsidiary in Korea.

## **Liquidity and Capital Resources**

The Company's working capital decreased \$78.6 million to \$222.0 million at April 30, 2006, as compared to \$300.6 million at October 30, 2005 primarily as a result of the classification of \$86.6 million of the Company's 4.75% convertible subordinated notes due in December of 2006 to current liabilities from long-term. Cash, cash equivalents and short-term investments at April 30, 2006 were \$279.9 million compared to \$286.6 million at October 30, 2005. The decrease in cash, cash equivalents and short-term investments during the six months ended April 30, 2006 was primarily due to \$56.6 million cash payments for capital expenditures which exceeded \$50.2 million net cash provided by operating activities by \$6.4 million. In addition, the Company invested an additional \$8.4 million in PK Ltd.

Cash provided by operating activities was \$50.2 million for the six months ended April 30, 2006, as compared to \$64.6 million for the same period last year. This decrease was primarily due to higher accounts receivable balances resulting from increased revenues, and increased FPD inventories in Taiwan and Korea. Cash used in investing activities for the six months ended April 30, 2006 was \$49.9 million, which is comprised of the \$8.4 million additional investment in PKL and capital expenditures of \$56.6 million, offset by net proceeds from sales of short-term investments of \$15.1 million. Cash provided by financing activities was \$5.3 million. In the six months ended May 1, 2005, cash used in financing activities was \$54.0 million which was primarily comprised of the redemption of \$51.4 million of the Company's 4.75% convertible subordinated notes.

The Company's commitments represent investments in additional manufacturing capacity as well as advanced equipment for the production of high-end, more complex photomasks. At April 30, 2006, Photronics had commitments outstanding for capital expenditures of approximately \$45.0 million. Additional commitments for capital expenditures are expected to be incurred during the remainder of fiscal 2006. The Company expects capital expenditures for fiscal 2006 to be approximately \$100 to \$120 million.

On May 5, 2006, the Company entered into various agreements with Micron Technologies, Inc., including agreements relating to the formation of a joint venture with Micron Technologies, Inc. to form the MP Mask Technology Center and a technology license agreement. In connection with these agreements, the Company invested \$135 million, \$120 million of which was paid in May 2006, and the remaining \$15 million will be paid in 2007 and 2008. In addition, Photronics intends to invest in the construction of a nanofab facility in Boise, Idaho for approximately \$100 - \$150 million, some of the cost of which may be from the redeployment of equipment currently owned by Photronics.

In January of 2006, the Company announced its plans to build a nanofab photomask fabrication facility in Korea to support the development and volume production of advanced photomask technologies. If the Company proceeds with the construction of the nanofab facility in Korea over the next several years, it expects the investment to range between \$150 to \$300 million, which includes the redeployment of certain manufacturing systems and process technologies.

The Company will continue to use its working capital to finance its capital expenditures. Photronics 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. The Company cannot provide assurance that it will be able to obtain the additional capital required in connection with its operations on reasonable terms, if at all, or that any such expenditures will not have a material adverse effect on its business and results of operations.

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In April of 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. The contract terminates in December 2006. The Company has elected not to designate the foreign currency rate swap contract as a hedge.

## **Stock-Based Compensation**

On October 31, 2005, the Company adopted SFAS No. 123(R) using the modified prospective transition method. The Company now recognizes compensation expense in its consolidated statements of operations over the service period that the awards are expected to vest. During the six month period ended April 30, 2006, the Company incurred approximately \$0.8 million in expense for its stock-based compensation plans, substantially all of which is in selling, general and administrative expenses. Of this amount, approximately \$0.5 million is attributed to adopting SFAS No. 123(R), and approximately \$0.3 million relates to restricted stock awards. As of April 30, 2006, approximately \$1.4 million in stock-based compensation expense is attributable to nonvested awards. This expense will be amortized over the remaining weighted average vesting period of 2.3 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. 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 as its sales volume continues to grow in Asia. 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, and 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

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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.

#### *Intangible Assets*

Intangible assets consist primarily of goodwill and other acquisition-related intangibles, and software development costs. These assets are stated at fair value as of the date acquired less accumulated amortization. Amortization is calculated on a straight-line basis over an estimated useful life of 5 years for software development costs and 3 to 15 years for acquisition-related 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.

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

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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.

### *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.

Allowance for Doubtful Accounts - The Company is required to use considerable judgment in estimating the collectibility of its accounts receivable. This estimate is based on a variety of factors, including the length of time receivables are past due, macroeconomic conditions, significant one-time events, and historical experience.

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

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments." SFAS No 155 permits fair value re-measurement for any hybrid financial instruments that contains an embedded derivative that otherwise would require bifurcation. As of April 30, 2006, the Company did not have any hybrid financial instruments subject to the fair value election under SFAS No 155. This statement is effective for all financial instruments acquired or issued after the beginning of an entity's first fiscal year that begins after September 2006.

In November 2005, the FASB issued SFAS No. 115-1 and SFAS No. 124-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments." This pronouncement provides guidance on determining if an investment is considered to be impaired, if the impairment is other-than-temporary, and the measurement of impairment losses. It also includes accounting considerations subsequent to the recognition of an other-than-temporary impairment and requires certain disclosures about unrealized losses that have not been recognized as other-than-temporary impairments. The Company early adopted this pronouncement which had no impact on its financial position, results of operations or cash flows.

In March 2005, the FASB issued FASB Interpretation No. 47, "Accounting for Conditional Asset Retirement Obligations" (FIN 47). FIN 47 clarifies that a conditional asset retirement obligation, as used in SFAS No. 143, "Accounting for Asset Retirement Obligations," refers to a legal obligation to perform an asset retirement activity in which the timing and/or method of the settlement are conditional on a future event that may or may not be within the control of the entity. The statement is effective for companies no later than their first fiscal year ending after December 15, 2005. The Company does not expect that FIN 47 will have a significant effect on its consolidated financial statements and is evaluating the timing of its adoption.

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### **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. 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.

In the fourth quarter of fiscal year 2002, the Company entered into an interest rate swap contract, which effectively converted \$100 million of its 4.75% fixed rate convertible subordinated notes to a variable rate. Contract payments are made on a LIBOR based variable rate (6.47% at April 30, 2006) and are received at the 4.75% fixed rate.

The interest rate swap contract is used to adjust the proportion of total debt that is subject to fixed interest rates. This contract is considered to be a hedge against interest rate risk of the Company's fixed rate debt obligation. Accordingly, the contract has been reflected at fair value in the Company's consolidated balance sheets and the related portion of fixed rate debt being hedged is reflected at an amount equal to the sum of its carrying value plus an adjustment representing the change in fair value of the debt obligation attributable to the interest rate risk being hedged. In addition, changes during any accounting period in the fair value of the contract, as well as offsetting changes in the adjusted carrying value of the related portion of fixed rate debt being hedged, are recognized as adjustments to interest expense in the Company's consolidated statements of income. The net effect of this accounting on the Company's operations results, is that the interest expense portion of fixed rate debt being hedged is generally recorded based on variable rates. At this time, the Company does not have plans to enter into additional interest rate swap contracts, however, at a future point the Company may decide to do so.

#### **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 functional currencies of the Company's Asian subsidiaries are the Korean won, New Taiwan dollar and Singapore dollar. The 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. In some instances, the Company may sell products in a currency other than the functional currency of the country where it was produced. To date, the Company has not experienced a significant foreign exchange loss on these sales. 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 United States dollar. The Company does not engage in purchasing forward exchange contracts for speculative purposes.

The Company's primary net foreign currency exposures as of April 30, 2006 included the Korean won, Singapore dollar, New Taiwan dollar, euro and the British pound. As of April 30, 2006, a 10% adverse movement in the value of these currencies against the United States dollar would have resulted in a net unrealized pre-tax loss of \$3.1 million. The Company's exposure to other foreign currency risks as of April 30, 2006, include the Japanese yen against the Korean won, for which the Company does not believe that a 10% change in the exchange rates of these currencies would have a material effect on its consolidated financial position, results of operations or cash flows.

In April of 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. The contract terminates in December 2006. The Company has elected not to designate the foreign currency rate swap contract as a hedge.

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### **Interest Rate Risk**

The majority of the Company's borrowings are in the form of its convertible subordinated notes, which bear interest at rates of 2.25% and 4.75% and certain foreign secured and unsecured notes payable which bear interest at rates between 5.58% and 5.85%. In addition, the interest rate swap contract discussed above subjects the Company to market risk as interest rates fluctuate and impacts the interest payments due on the \$100 million notional amount of the contract. At April 30, 2006, the Company had approximately \$176 million in variable rate financial instruments 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 April 30, 2006, 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 April 30, 2006, 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 Company's second quarter of fiscal 2006 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

Other than the following, there have been no other material changes to risks relating to the Company's business as disclosed in Part I, Item 1A of the Company's Form 10-K for the year ended October 30, 2005.

#### The Company's agreements with Micron Technology, Inc. have several risks.

On May 5, 2006, Photronics and Micron Technology, Inc. ("Micron") entered into a joint venture known as MP Mask Technology Center, LLC ("MP Mask"). The joint venture will develop and produce photomasks for leading-edge and advanced next generation semiconductors. As part of the formation of the joint venture, Micron contributed its existing photomask technology center located at its Boise headquarters to MP Mask and Photronics paid Micron \$120 million on the date of closing and will pay Micron an additional \$7.5 million on each of the first and second anniversaries of the closing date in exchange for a 49.99% interest in MP Mask and a license for photomask technology of Micron and certain supply agreements.

Photronics and Micron also intend to build an independent state-of-the-art nanofab facility (the "New NanoFab") in Boise, Idaho, for volume production of advanced technology photomasks. The New NanoFab will be constructed by Micron, equipped and operated by Photronics and subject to a lease purchase in favor of Photronics. Photronics' total investment in the purchase and equipping of the New NanoFab is expected to fall within a range of \$100 million to \$150 million and will include redeployment of some existing Photronics assets. This New NanoFab is expected to be completed and to begin qualification by the end of 2007 or the first quarter of 2008.

Failure by Photronics or Micron to comply or execute under any of these agreements could result in a significant disruption to the Company's business and technology activities, and could adversely affect the Company's operations and cash flows.

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### Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

- (a) The matters set forth in this Item 4 were submitted to a vote of security holders of the Company at an Annual Meeting of Shareholders held on April 4, 2006.
- (b) The following directors, constituting the entire Board of Directors, were elected at the Annual Meeting of Shareholders held on April 4, 2006. Also indicated are the affirmative and authority withheld votes for each director.

	<u>For</u>	<u>Authority Withheld</u>
Walter M. Fiederowicz	37,717,780	988,385
Joseph A. Fiorita, Jr.	37,687,466	1,018,699
Michael J. Luttati	36,808,823	1,897,342
Constantine S. Macricostas	36,179,121	2,527,044
George C. Macricostas	36,751,506	1,954,659
Willem D. Maris	38,453,871	252,294
Mitchell G. Tyson	37,675,307	1,030,858

- (c) Ratification of the selection of Deloitte & Touche LLP as registered independent public accounting firm for the fiscal year ended October 29, 2006.

	<b>For</b>	<b>Against</b>	<b>Abstain</b>	<b>Non-Votes</b>
	37,898,450	792,833	14,881	1

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**Item 6. EXHIBITS**

(a) Exhibits

**Exhibit  
Number**

**Description**

- 10.17\* Limited Liability Company Operating Agreement of MP Mask Technology Center, LLC between Micron Technology, Inc. ("Micron") and Photronics, Inc. ("Photronics") dated May 5, 2006.
- 10.18\* Contribution and Units Purchase Agreement between Micron, Photronics and MP Mask Technology Center, LLC ("MP Mask") dated May 5, 2006.
- 10.19\* Technology License Agreement among Micron, Photronics and MP Mask dated May 5, 2006.
- 10.20\* Build to Suit Lease between Micron and Photronics dated May 5, 2006.
- 10.21\* Photronics to Micron Supply Agreement between Micron and Photronics dated May 5, 2006.
- 10.22\* Company to Photronics Supply Agreement between MP Mask and Photronics dated May 5, 2006.
- 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.

\* Portions of this exhibit have been omitted pursuant to a request for confidential treatment filed with the Securities and Exchange Commission.

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**SIGNATURES**

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

Photronics, Inc.  
(Registrant)

By:           /s/ SEAN T. SMITH

Sean T. Smith  
Senior Vice President  
Chief Financial Officer  
(Duly Authorized Officer and  
Principal Financial Officer)

Date: June 8, 2006



LIMITED LIABILITY COMPANY

OPERATING AGREEMENT

OF

MP MASK TECHNOLOGY CENTER, LLC

a Delaware Limited Liability Company

MEMBERSHIP INTERESTS IN MP MASK TECHNOLOGY CENTER, LLC, A DELAWARE LIMITED LIABILITY COMPANY, HAVE NOT BEEN REGISTERED WITH OR QUALIFIED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE. THE INTERESTS ARE BEING SOLD IN RELIANCE UPON EXEMPTIONS FROM SUCH REGISTRATION OR QUALIFICATION REQUIREMENTS. THE INTERESTS CANNOT BE SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISPOSED OF EXCEPT IN COMPLIANCE WITH THE RESTRICTIONS ON TRANSFERABILITY CONTAINED IN THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF MP MASK TECHNOLOGY CENTER, LLC AND APPLICABLE FEDERAL AND STATE SECURITIES LAWS.

Dated as of May 5, 2006

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EXHIBITS

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Exhibit B	Initial Micron Managers
Exhibit C	Initial Photronics Managers
Exhibit D	Insurance

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

LIMITED LIABILITY COMPANY OPERATING AGREEMENT  
OF  
MP MASK TECHNOLOGY CENTER, LLC

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT (together with the Exhibits, this "Agreement") is made and entered into as of the 5th day of May, 2006 (the "Effective Date"), by and between Micron Technology, Inc., a Delaware corporation ("Micron"), and Photronics, Inc., a Connecticut corporation ("Photronics"), with respect to MP Mask Technology Center, LLC (the "Company"), a limited liability company organized under the Delaware Limited Liability Company Act, as amended from time to time (the "Act").

ARTICLE 1.  
ORGANIZATIONAL MATTERS

1.1 Continuation

The Company was formed under the Act on April 10, 2006 by filing a Certificate of Formation of the Company (the "Certificate") in the Office of the Secretary of State of the State of Delaware as required by the Act. The Members hereby continue the Company under the Act for the purposes and upon the terms and conditions hereinafter set forth. Micron hereby continues as a Member of the Company, and Photronics is admitted to the Company as a Member upon its execution of this Agreement and receipt by Micron of \$48 million of the Purchase Price (as defined in the Contribution and Purchase Agreement). The rights and liabilities of the Members shall be as provided in the Act, except as otherwise expressly provided herein. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern. If any provision of this Agreement is prohibited or ineffective under the Act, this Agreement will be considered amended to the smallest degree possible in order to make such provision effective under the Act. Subject to the provisions hereof, the Board of Managers may execute and file, or cause the General Manager to file, any duly authorized amendments to the Certificate from time to time in a form prescribed by the Act. The Board of Managers shall also cause to be made, on behalf of the Company, such additional filings and recordings as the Board of Managers shall deem necessary or advisable.

1.2 Name

The name of the Company shall be MP Mask Technology Center, LLC. The Company may also conduct business at the same time under one or more fictitious names if the Board of Managers determines that such is in the best interests of the Company. The Board of Managers may change the name of the Company from time to time, in accordance with Applicable Law.

### 1.3 Principal Place of Business; Other Places of Business

The principal place of business of the Company is located at 3851 East Columbia Road, Boise, Idaho or at such other place within or outside the State of Delaware as the Board of Managers may from time to time designate. The Company may maintain offices and places of business at such other place or places within or outside the State of Delaware as the Board of Managers deem advisable.

### 1.4 Business Purpose

The purpose of the Company shall be the (a) development, fabrication and sale of advanced photomasks; (b) entry into any other lawful business, purpose or activity in which a limited liability company may be engaged under Applicable Law (including, without limitation, the Act) as the Members may determine from time to time, subject to and in accordance with the terms of this Agreement; and (c) entry into any lawful transaction and engagement in any lawful activity in furtherance of the foregoing purposes and as may be necessary, incidental or convenient to carry out the business of the Company as contemplated by this Agreement.

### 1.5 Designated Agent for Service of Process

The Company shall continuously maintain a registered office and a designated and duly qualified agent for service of process on the Company in the State of Delaware. As of the date hereof, the name of the duly qualified agent for service of process is Corporation Service Company and the address of the registered office of the Company in the State of Delaware is c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. The registered office and the registered agent may be changed from time to time by the Board of Managers, by causing the prescribed form, accompanied by the requisite filing fee, to be filed with the Delaware Secretary of State in accordance with the Act.

### 1.6 Term

The Company shall continue until the Company is terminated, dissolved or liquidated in accordance with this Agreement and the Act. Notwithstanding the dissolution of the Company, the existence of the Company shall continue until termination pursuant to and as provided in Article 8 of this Agreement.

### 1.7 Objectives; Approved Technology

The primary objectives of the Company (the "Primary Objectives") are to: (i) develop and produce prototypes for industry-leading, advanced, next-generation, high-end photomasks in accordance with Micron's specifications; (ii) achieve sustainable, leading edge photomask production capabilities; (iii) manufacture production photomasks for, and approved by, Micron pursuant to Micron's specifications and in quantities required under the Transaction Documents. To the extent the Company has excess capacity and resources after completely fulfilling the Primary Objectives (inclusive of fulfillment of Company and Micron engineering

needs appropriate to accomplish the foregoing, but recognizing that Photronics may also support Micron's production photomask needs through its other facilities as allowed pursuant to the Transaction Documents), the Company's secondary objective (the "Secondary Objective") is to support the development of leading edge logic applications and manufacture prototypes and, when approved by the Technology Steering Committee, production photomasks, for use by external Photronics customers; [\*\*\*\*].

[\*\*\*\*].

#### 1.8 Transaction Documents

Contemporaneous with, or prior to, the execution of this Agreement, Photronics, Micron and/or the Company have entered into the agreements listed on Schedule B to the Contribution and Purchase Agreement (collectively, the "Transaction Documents").

#### ARTICLE 2. DEFINITIONS

Capitalized words and phrases used and not otherwise defined elsewhere in this Agreement shall have the following meanings:

"Act" is defined in the preamble.

"Adjusted Capital Account Deficit" means, with respect to any Member at any time, the deficit balance, if any, in such Member's Capital Account as of such time, after giving effect to the following adjustments:

(1) Add to such Capital Account the amount that such Member is obligated to restore or is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or the penultimate sentence of each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(2) Subtract from such Capital Account such Member's share of the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" of a Person means any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. A Person shall be deemed an Affiliate of another Person only so long as such control relationship exists. The parties acknowledge and agree that neither Photronics nor Micron is presently controlled by any other Person. Notwithstanding the foregoing, a Company Entity shall not be deemed to be an Affiliate of either Photronics or Micron, except where expressly provided in this Agreement.

"Agreement" shall mean this Limited Liability Company Operating Agreement, together with the Exhibits, as amended or otherwise modified from time to time, which shall constitute the limited liability company agreement of the Company within the meaning of the Act.

"Annual Budget" is defined in Section 6.4.

"Applicable Law" means, with respect to a Person, any domestic or foreign, national, federal, territorial, state or local constitution, statute, law (including principles of common law), treaty, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, legally binding directive, judgment, decree or other requirement or restriction of any arbitrator or Governmental Authority applicable to such Person or its properties, assets, officers, directors, employees, consultants or agents (in connection with such officer's, director's, employee's, consultant's or agent's activities on behalf of such Person).

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement dated as of the date hereof, by and between Micron and the Company.

"Base Contributions" is defined in Section 4.1.2(a).

"Board of Managers" means, at any time, the Board of Managers of the Company designated in accordance with Section 5.2.

"Business" is defined in Section 5.7(g).

"Business Day" means any day other than a day on which commercial banks in the United States are required or authorized to be closed.

"Capital Account" means the Capital Account maintained for each Member on the Company's books and records in accordance with the following provisions:

(1) To each Member's Capital Account there shall be added (a) such Member's Capital Contributions, (b) such Member's allocable share of Net Profits and any items in the nature of income or gain that are specially allocated to such Member pursuant to Article 10



hereof or other provisions of this Agreement and (c) the amount of any Company liabilities assumed by such Member or which are secured by any property owned by such Member.

(2) From each Member's Capital Account there shall be subtracted (a) the amount of (i) cash and (ii) the Gross Asset Value of any Company Assets (other than cash) distributed to such Member pursuant to any provision of this Agreement in its capacity as a Member (for the avoidance of doubt, any payment to a Member pursuant to any license, consulting, services, subcontracting, lease or other agreement between the Company and such Member or any Affiliates of such Member shall not be treated as a "distribution"), (b) such Member's allocable share of Net Losses and any other items in the nature of expenses or losses that are specially allocated to such Member pursuant to Article 10 or other provisions of this Agreement, and (c) liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member.

(3) In the event any Interest in the Company is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Interest.

(4) In determining the amount of any liability for purposes of subsections (1) and (2) of this definition, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

(5) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2 and shall be interpreted and applied in a manner consistent with such Regulations. In the event that the Board of Managers shall determine that it is prudent to modify the manner in which the Capital Accounts, or any additions or subtractions thereto, are computed in order to comply with such Regulations, the Board of Managers may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Article 8 hereof upon the dissolution of the Company. The Board of Managers shall also make (a) any adjustments that are necessary or appropriate, in the absence of guidance under applicable Regulations, to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q), and (b) any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Sections 1.704-1(b) and 1.704-2.

"Capital Contributions" means, with respect to any Member, the total amount of cash and the initial Gross Asset Value of property (other than cash) contributed to the capital of the Company by such Member.

"Cash" means cash and cash equivalents determined by the Board of Managers in good faith consistent with GAAP.

"Certificate" is defined in Section 1.1.

"Chairman of the Board" is defined in Section 5.5.

"Change in Control" shall be deemed to have occurred, with respect to Micron or Photronics, when:

(1) Any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of shares representing more than fifty percent (50%) of the combined voting power of the then outstanding securities entitled to vote generally in elections of directors of Micron or Photronics, as the case may be (the "Voting Stock");

(2) Micron or Photronics (A) consolidates with or merges into any other Person or any other Person merges into Micron or Photronics, and in the case of any such transaction, the outstanding common stock of Micron or Photronics, as the case may be, is changed or exchanged into other assets or securities as a result, unless the stockholders of Micron or Photronics, as the case may be, immediately before such transaction own, directly or indirectly immediately following such transaction, more than fifty percent (50%) of the combined voting power of the outstanding voting securities of the corporation resulting from such transaction in substantially the same proportion as their ownership of the Voting Stock immediately before such transaction, or (B) conveys, transfers or leases all or substantially all of its assets to any Person; or

(3) Any time Continuing Directors do not constitute a majority of the Board of Directors of Micron or Photronics, as the case may be (or, if applicable, a successor Person to Micron or Photronics, as the case may be).

"Change in Control Notice" is defined in Section 7.4.1.

"Change in Control Closing" is defined in Section 7.4.2.

"Change in Control Closing Price" is defined in Section 7.4.3.

"Change in Control Option Price" is defined in Section 7.4.3.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

"Company" is defined in the preamble.

"Company Accountant" shall mean initially PricewaterhouseCoopers LLP or such other independent accounting firm as appointed from time to time by the Board of Managers.

"Company Assets" means all direct and indirect rights and interests in real and personal property owned by the Company and its subsidiaries from time to time, and shall include both tangible and intangible property (including Cash).

"Company Correlative Item" is defined in Section 10.4.4(b).

"Company Entity" means the Company, or any of its directly or indirectly majority owned subsidiaries (whether organized as corporations, limited liability companies or other legal entities).

"Company Minimum Gain" has the meaning set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d)(1) for the phrase "partnership minimum gain."

"Company Section 482 Allocation" is defined in Section 10.4.4(a).

"Competing Products" [\*\*\*\*].

"Continuing Director" means, solely with respect to Micron or Photronics, at any date, a member of Micron's or Photronics' Board of Directors, as the case may be, (i) who was a member of such board as of the Effective Date or (ii) who was nominated or elected by at least a majority of the directors who were Continuing Directors at the time of such nomination or election or whose election to such board was recommended or endorsed by at least a majority of the directors who were Continuing Directors at the time of such nomination or election or such lesser number comprising a majority of a nominating committee comprised of independent directors if authority for such nominations or elections has been delegated to a nominating committee whose authority and composition have been approved by at least a majority of the directors who were Continuing Directors at the time such committee was formed.

"Contribution and Purchase Agreement" means the Contribution and Units Purchase Agreement dated as of the date hereof by and between the Company, Micron and Photronics.

"Depreciation" means, for each Fiscal Year of the Company or other period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Managers.

"Economic Interest" means a Person's right to share in allocations of Net Profits, Net Losses and other items of income, gains, losses, deductions and credits hereunder and to receive distributions from the Company as set forth in this Agreement, but does not include any other rights of a Member including, without limitation, the right to vote or to participate in the management of the Company, or, except as specifically provided in this Agreement or required under the Act, any right to information concerning the business and affairs of the Company.

"Effective Date" is defined in the preamble.

"Excess Allocation" is defined in Section 9.1.2.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fiscal Month" is defined in Section 5.10.1.

"Fiscal Quarter" is defined in Section 5.10.1.

"Fiscal Year" is defined in Section 5.10.1.

"GAAP" means generally accepted accounting principles in the United States as in effect from time to time.

"GAAS" means generally accepted auditing standards in the United States as in effect from time to time.

"General Manager" is defined in Section 5.12.1.

"Governmental Authority" means any foreign, domestic, national, federal, territorial, state or local governmental authority, quasi-governmental authority, instrumentality, court, government or self-regulatory organization, commission, tribunal or organization or any regulatory, administrative or other agency, or any political or other subdivision, department or branch of any of the foregoing.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(1) The initial Gross Asset Value of the Micron Contributed Assets shall be as set forth on Exhibit A. The initial Gross Asset Value of any other asset contributed by a Member shall be the fair value of such asset as determined by the Board of Managers and the contributing Member.

(2) The Gross Asset Value of all Company Assets immediately prior to the occurrence of any event described in subsections (a) through (d) hereof shall be adjusted to equal their respective fair values, in accordance with the applicable valuation provisions of this

Agreement, or if there are no such provisions, as determined by the Board of Managers using such reasonable method of valuation as the Board of Managers may adopt, upon the occurrence of the following events and in accordance with the applicable Regulations:

(a) the acquisition of an additional Interest in the Company (other than in connection with the execution of this Agreement) by a new or existing Member in exchange for more than a de minimis Capital Contribution, if the Board of Managers reasonably determines that such adjustment is necessary or appropriate to reflect the relative Economic Interests of the Members in the Company;

(b) the distribution by the Company to a Member of more than a de minimis amount of Company Assets as consideration for an Economic Interest or Interest in the Company, if the Board of Managers reasonably determines that such adjustment is necessary or appropriate to reflect the relative Economic Interests of the Members in the Company;

(c) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(d) at such other times as the Board of Managers shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(3) The Gross Asset Value of any Company Asset distributed to a Member shall be the gross fair market value of such Company Asset on the date of distribution as determined by the Board of Managers.

(4) The Gross Asset Values of Company Assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such Company Assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (4) of this definition to the extent that the Board of Managers reasonably determines that an adjustment pursuant to subsection (2) of this definition above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (4) of this definition.

(5) If the Gross Asset Value of a Company Asset has been determined or adjusted pursuant to subsections (1), (2) or (4) of this definition, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such Company Asset for purposes of computing Net Profits and Net Losses.

"Increasing Member" is defined in Section 5.4.1

"Indemnified Loss" is defined in Section 5.11.1.

"Indemnatee" is defined in Section 5.11.1.

"Liquidators" is defined in Section 8.5.1.

"Majority Member" is defined in Section 7.3.1.

"Managers" means at any time the individuals designated in accordance with Section 5.2 to serve on the Board of Managers.

4.1.2(a). "Maximum Base Contributions Amount" is defined in Section

4.1.2(b). "Maximum Excess Contributions Amount" is defined in Section

"Member" means a Person owning a Membership Interest.

"Member Correlative Item" is defined in Section 10.4.4(a).

"Member Minimum Gain" means "partner nonrecourse debt minimum gain" as defined in Regulations Section 1.704-2(i)(2).

"Member Nonrecourse Debt" means "partner nonrecourse debt" as set forth in Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Deductions" means "partner nonrecourse deductions" as set forth in Regulations Section 1.704-2(i).

10.4.4(b). "Member Section 482 Allocation" is defined in Section

"Membership Interest" or "Interest" means the entire ownership interest of a Member in the Company at any particular time, including without limitation, the Member's Economic Interest, any and all rights to vote and otherwise participate in the Company's affairs, and the rights to any and all benefits to which a Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement. A Membership Interest may be expressed as a number of Units.

"Micron" is defined in the preamble.

"Micron Contributed Assets" mean the "Transferred Assets" (as defined in the Contribution and Purchase Agreement) contributed by Micron to the Company.

"Micron Manager" means any of the Managers designated by Micron to serve on the Board of Managers in accordance with Section 5.2.

"Minority Closing" is defined in Section 7.3.1.

"Minority Closing Price" is defined in Section 7.3.2.

"Minority Member" is defined in Section 7.3.1.

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"Net Profits" or "Net Losses" means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(1) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be added to such taxable income or loss;

(2) Any expenditure of the Company described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this subsection (2) of this definition, shall be subtracted from such taxable income or loss;

(3) Gain or loss resulting from any disposition of Company Assets where such gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Company Assets disposed of, notwithstanding that the adjusted tax basis of such Company Assets differs from its Gross Asset Value;

(4) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year;

(5) To the extent an adjustment to the adjusted tax basis of any asset included in Company Assets pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for the purposes of computing Net Profits and Net Losses;

(6) If the Gross Asset Value of any Company Asset is adjusted in accordance with subsection (2) or subsection (3) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account in the taxable year of such adjustment as gain or loss from the disposition of such asset for purposes of computing Net Profits or Net Losses; and

(7) Notwithstanding any other provision of this definition, any items of income, gain, loss or deduction that are specially allocated pursuant to Sections 10.2 and 10.4.4 shall not be taken into account in computing Net Profits or Net Losses. The amount of items of

income, gain, loss and deduction available to be specially allocated shall be determined using principles analogous to those set forth in this definition.

The Members acknowledge and agree that for financial accounting purposes the results of the Company's operations will be reported in accordance with GAAP.

"Non-Disclosure Agreement" means the Non-Disclosure Agreement, dated as of the date hereof, by and among the Company, Micron and Photronics.

"Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Officer" is defined in Section 5.12.3.

"Option Price" is defined in Section 7.3.2.

"Percentage Interest" means, with respect to a Member holding one or more Units, its Interest in the Company as determined by dividing the number of Units owned by such Member by the total number of Units of the Company then outstanding as specified in Exhibit A attached hereto, as such exhibit may be modified or supplemented from time to time in accordance with the terms of this Agreement. A change in a Member's Capital Account shall not affect the Percentage Interests of the Members unless expressly provided in this Agreement.

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"Person" means any person or entity, whether an individual, trustee, corporation, partnership, limited partnership, limited liability company, trust, unincorporated organization, business association, firm, joint venture, other legal entity or Governmental Authority.

"Photronics" is defined in the preamble.

"Photronics Manager" means any of the Managers designated by Photronics to serve on the Board of Managers in accordance with Section 5.2.

"Primary Objectives" is defined in Section 1.7.

"Proceeding" means any action, suit, hearing, arbitration, proceeding (public or private), investigation, examination, audit or claim brought by or against any Governmental Authority.

"R&D" is defined in Section 3.6.

"Reducing Member" is defined in Section 5.4.1.



"Regulations" means temporary and final Treasury Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding Treasury Regulations).

"Regulatory Allocations" is defined in Section 10.2.8.

"Representative" is defined in Section 5.11.7(e).

"Responsible Party" is defined in Section 5.11.6.

"Secondary Objective" is defined in Section 1.7.

"SG&A" is defined in Section 3.6.

"Special Vote" means the affirmative vote or consent of each of Micron (provided that Micron shall be entitled to such vote or consent only so long as Micron's Percentage Interest is at least twenty-five percent (25%)) and Photronics (provided that Photronics shall be entitled to such vote or consent only so long as Photronics' Percentage Interest is at least twenty-five percent (25%)).

"Tax" or "Taxes" means all taxes, levies, imposts and fees imposed by any Governmental Authority (domestic or foreign) of any nature including but not limited to federal, state, local or foreign net income tax, alternative or add-on minimum tax, profits or excess profits tax, franchise tax, gross income, adjusted gross income or gross receipts tax, employment related tax (including employee withholding or employer payroll tax, FICA or FUTA), real or personal property tax or ad valorem tax, sales or use tax, excise tax, stamp tax or duty, any withholding or back up withholding tax, value added tax, severance tax, prohibited transaction tax, premiums tax, occupation tax, together with any interest or any penalty, addition to tax or additional amount imposed by any Governmental Authority (domestic or foreign) responsible for the imposition of any such tax.

"Tax Matters Partner" shall mean Micron.

"Technology License Agreement" means the Technology License Agreement dated as of the date hereof by and among the Company, Micron and Photronics.

"Technology Steering Committee" is defined in Section 5.13.

"Transaction Documents" is defined in Section 1.8.

"Transfer" (including, with correlative meaning, the term "Transferred") means, with respect to any Unit, Membership Interest or Economic Interest or portion thereof, a sale, conveyance, exchange, assignment, pledge, encumbrance, gift, bequest, hypothecation or other transfer or disposition by any other means, whether for value or no value and whether

voluntary or involuntary (including, without limitation, by operation of law), or an agreement to do any of the foregoing.

"Unit" means, with respect to a Membership Interest, a fractional, undivided share of such Membership Interest issued pursuant to Article 3 of this Agreement. A Membership Interest may include a fractional Unit. As of the date hereof, the Units are held by the Members in accordance with Exhibit A, which Exhibit will be updated from time to time in accordance with the terms of this Agreement.

"Voting Stock" is defined in the definition of "Change in Control."

ARTICLE 3.  
CAPITAL; CAPITAL ACCOUNTS AND MEMBERS

3.1 Initial Capital Contributions of Members

3.1.1 Capital Contributions. The Members acknowledge and agree that as of the date hereof: (i) pursuant to the Contribution and Purchase Agreement Micron has contributed to the Company the Micron Contributed Assets; and (ii) pursuant to the Assignment and Assumption Agreement Micron has assigned to the Company certain contractual rights and other liabilities, and the Company has assumed certain liabilities of Micron in connection therewith. Upon Photronics purchase of 49,990 Units, from Micron pursuant to the Contribution and Purchase Agreement, Photronics' and Micron's Capital Account balances shall have a relative ratio equal to 49.99 divided by 50.01.

3.1.2 Capital Account Balances. The names, addresses, initial Capital Account balances of each Member (after giving effect to the transactions described in Section 3.1.1 and the sale by Micron of an Interest in the Company to Photronics pursuant to the LLC Units Sale and Purchase Agreement), Percentage Interests of, and number of Units owned by, the Members are as set forth on Exhibit A, provided that the gross asset value and capital account balances on Exhibit A will not be finalized until the completion of the balance sheet referenced in Section 5.10.3(a).

3.2 Additional Capital Contributions by Members

Except as provided in Section 3.1 and Section 4.1.2, no Member shall be required to make any Capital Contributions to the Company.

3.3 Capital Accounts

A Capital Account shall be established and maintained by the Company for each Member in accordance with the terms of this Agreement.

### 3.4 Member Capital

Except as otherwise provided in this Agreement or approved by a Special Vote: (a) no Member shall demand or be entitled to receive a return of or interest on any portion of its Capital Contributions or balance in its Capital Account; (b) no Member shall withdraw any portion of its Capital Contributions or receive any distributions from the Company as a return of capital on account of such Capital Contributions; and (c) the Company shall not redeem or repurchase the Membership Interest of any Member, provided that any such return, distribution or redemption that is permitted hereunder shall be pro rata based upon the Members' respective Percentage Interests.

### 3.5 Liability of Members

Except as otherwise required by any non-waivable provision of the Act or other Applicable Law and except as provided in this Agreement or other agreements between the Company and one or more Members or their Affiliates, no Member shall be liable in any manner whatsoever for any debt, liability or other obligation of the Company, whether such debt, liability or other obligation arises in contract, tort, or otherwise solely by reason of being a Member.

### 3.6 Certain Expenses.

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## ARTICLE 4. FINANCING OF THE COMPANY

### 4.1 Types of Financing

4.1.1 General. The Board of Managers shall be responsible for determining the type of financing required to fund the operations of the Company, which may include Capital Contributions from Members or incurring debt from Members or from public, private or bank markets.

#### 4.1.2 Member Contributions.

(a) If the Board of Managers determines that the Company requires additional funding by way of Capital Contributions, then the Members shall make additional Capital Contributions of up to [\*\*\*\*]. Any such written notice shall include the amount of required Capital Contribution and the required funding date and shall be sent to the Members at least twenty (20) Business Days prior to the required funding date. Such required funding date shall correspond to the end of a Fiscal Month. Subject to the dollar limitation set forth in this Section 4.1.2(a), [\*\*\*\*].

(b) If the Members (or one of the Members as allowed pursuant to Section 4.1.2(c)) have made all of the Base Contributions provided for by Section 4.1.2(a) during any year and the Board of Managers determines that additional funding is required and advisable, then the Company shall pursue its own additional needed financing. If, after using its reasonable efforts to obtain such financing, the Company cannot obtain such financing on terms that are acceptable to the Company, then the Company may request that the Members make additional Capital Contributions in excess of the Base Contributions of up to an additional aggregate amount equal to such amount as agreed between the Members or, absent any such agreement, [\*\*\*\*] (the "Maximum Excess Contributions Amount") (each Member having the right to contribute its pro rata share, determined by multiplying such amount by such Member's Percentage Interest (the "Excess Contributions")) to the Company upon the written request of the Board of Managers. Any such written request shall include the amount of requested Capital Contribution and the required funding date and shall be sent to the Members at least twenty (20) Business Days prior to the required funding date. Such required funding date shall correspond to the end of a Fiscal Month. Subject to the dollar limitation set forth in this Section 4.1.2(b), there shall be no limit on the number of such requests for Excess Contributions that the Board of Managers may make in any year. Subject to Section 4.1.2(c), each Member shall have the right to make any Excess Contribution pro rata based on its Percentage Interest.

(c) If a Member fails to make a required Base Contribution or a requested Excess Contribution by the required funding date set forth pursuant to Section 4.1.2(a) or (b) above, then the other Member may elect to fund its portion and all or part of the non-funding Member's portion of such Base Contribution or Excess Contribution; provided, however, that in no event may a Member make during any year aggregate Base Contributions, including those made for itself and for the non-funding Member, in excess of the Maximum Base Contributions Amount or aggregate Excess Contributions, including those made for itself and for the non-funding Member, in excess of the Maximum Excess Contributions Amount, without the prior written consent of the other Member.

(d) Upon the payment by either or both Members of any required Base Contribution or requested Excess Contribution, the Company shall issue a number of additional Units (rounded down to the nearest whole Unit) to the funding Member(s) equal to the amount of the Base Contribution or Excess Contribution, as the case may be, funded by the funding Member(s) divided by a fraction, the numerator of which is the [\*\*\*\*] of the Company's Assets, less the [\*\*\*\*] of the Company's liabilities, as of the required funding date immediately prior to the funding of the Base Contributions or Excess Contributions, as the case may be, and the denominator of which is the number of Units outstanding immediately prior to the funding of the Base Contributions or Excess Contributions, as the case may be.

(e) The provisions of Sections 4.1.2(a)-(d) (including any obligation to make any Base Contribution or Excess Contribution requested on or prior to [\*\*\*\*]) shall not apply following [\*\*\*\*] unless neither Member has provided notice pursuant to Section 8.2(f) prior to [\*\*\*\*], in which case such provisions shall again be applicable following [\*\*\*\*].

ARTICLE 5.  
MANAGEMENT

5.1 Board of Managers

5.1.1 Powers. Except as otherwise expressly provided in this Agreement, all management powers over the business, property and affairs of the Company are exclusively vested in a board of Managers (the "Board of Managers"), and no Member shall have any right to participate in or exercise control or management power over the business and affairs of the Company or otherwise to bind, act or purport to act on behalf of the Company in any manner. Subject to the limitations set forth in this Agreement, the Board of Managers shall have all the rights and powers that may be possessed by a manager under the Act, which shall include, without limitation, the power to incur indebtedness, the power to enter into agreements and commitments of all kinds, the power to manage, acquire and dispose of Company Assets, and all ancillary powers necessary or convenient to the foregoing. Unless authorized by a Special Vote, no individual Manager may, in his or her capacity as a Manager, act for the Board of Managers or have authority to bind the Company. The Board of Managers may also designate one or more persons to open bank accounts and conduct other banking business on behalf of the Company. The Managers shall devote such time to the business and affairs of the Company as is reasonably necessary for the performance of their duties, but shall not be required to devote full time to the performance of such duties.

5.1.2 Evaluation of General Manager. The Board of Managers will be responsible for supervision and evaluation of the Company's General Manager on an ongoing basis, including at least an annual review of his or her performance to ensure he or she is acting in accordance with prudent business practices.

5.2 Number of Managers; Appointment of Managers

The Board of Managers shall initially consist of six (6) individuals (each such individual, a "Manager"). Subject to Sections 5.3 and 5.4 below, three (3) of the Managers shall be appointed by Micron and three (3) of the Managers shall be appointed by Photronics. Unless a Manager resigns (including by death or retirement) or is removed either by the Member who appointed such Manager or in accordance with Section 5.3 or 5.4, each Manager shall hold office until a successor shall have been duly appointed by the appointing Member. Each Member having the right to nominate a Manager or Managers pursuant to this Section 5.2 shall have the right, in its sole discretion, to remove such Manager or Managers at any time, by delivery of written notice to the other Member, the Company and the Manager(s) to be removed. In the case of a vacancy in the office of a Manager for any reason (including by reason of death, resignation, retirement, expiration of such Manager's term or removal pursuant to the preceding sentence), the vacancy shall be filled by the Member that nominated the Manager in question; provided, however, that in the case of a vacancy created due to a change in a Member's Percentage Interest as described in Section 5.3 or 5.4, such vacancy shall be filled in accordance with Section 5.3 or 5.4. Micron hereby selects the individuals specified on Exhibit B hereto to serve on the initial

Board of Managers. Photronics hereby selects the individuals specified on Exhibit C hereto to serve on the initial Board of Managers.

5.3 Effect of Reduction in Photronics' Percentage Interest on Photronics Managers

Subject to Section 5.4.1 below, the number of Managers that Photronics can appoint to or maintain on the Board of Managers shall depend on Photronics' Percentage Interest as follows:

Photronics' Percentage Interest	Number of Photronics Managers
[****]	3
[****]	1
[****]	0

5.4 Effect of Reduction in Micron's Percentage Interest on Micron Managers

Subject to Section 5.4.1 below, the number of Managers that Micron can appoint to or maintain on the Board of Managers shall depend on Micron's Percentage Interest as follows:

Micron's Percentage Interest	Number of Micron Managers
[****]	3
[****]	1
[****]	0

5.4.1 Procedure. If either Member's Percentage Interest should be below any of the threshold levels set forth in Sections 5.3 or 5.4 above and if such Member (the "Reducing Member") then has more designees serving on the Board of Managers than the number to which it is entitled, such Reducing Member shall immediately identify by written notice to the other Member the designee or designees on the Board of Managers that will cease serving on the Board of Managers, and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. If such Reducing Member fails to make such designation within five (5) Business Days after written demand by the other Member (the "Increasing Member"), the Increasing Member may designate by written notice to the Reducing Member one or more (as appropriate) of the Reducing Member's designees on the Board of Managers that will cease serving on the Board of Managers and each such designee shall thereupon cease to be a Manager or member of the Board of Managers. Upon the written notice described in either of the immediately preceding two sentences, the Increasing Member may immediately fill the vacancies created by such removals by written notice to the other Member designating its selected Manager(s). Similarly, if a Member whose Percentage Interest fell below any threshold

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

level set forth in Section 5.3 or 5.4 subsequently increases its Percentage Interest above any such level, the process shall be reversed.

#### 5.5 Chairman of the Board of Managers

A Chairman of the Board of Managers (the "Chairman of the Board") shall preside at all meetings of the Board of Managers. The Chairman of the Board shall be selected from among the Managers appointed by Micron; provided, however, that if the Percentage Interest of Micron falls below [\*\*\*\*], then the Chairman of the Board will be selected by Photronics if Photronics' Percentage Interest is above [\*\*\*\*] or otherwise by the Board of Managers.

#### 5.6 Meetings of Members and of the Board of Managers; Quorum

5.6.1 Member Meetings. At any time, and from time to time, the Board of Managers may, but shall not be required to, call meetings of the Members. Special meetings of the Members for any proper purpose or purposes may be called at any time by either Member. Written notice of any such meeting (which may be given via confirmed facsimile, confirmed e-mail or other manner provided for in Section 11.5) shall be given to all Members not less than five (5) Business Days nor more than thirty-five (35) Business Days prior to the date of such meeting. Each meeting of the Members shall be conducted by the Chairman of the Board of Managers or any designee thereof. Each Member may authorize any Person by written proxy to act for it or on its behalf on all matters in which the Member is entitled to participate. Each proxy must be signed by a duly authorized officer of the Member. All other provisions governing or otherwise relating to the holding of meetings of the Members shall from time to time be established in the sole discretion of the Board of Managers.

5.6.2 Action by Member Consent. Any action which may be taken at any meeting of the Members may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, is executed by all Members.

5.6.3 Board Meetings. The Board of Managers shall hold meetings at least once every Fiscal Quarter. The presence of four (4) Managers (with at least fifty percent (50%) of the Managers present being Micron Managers), in each case, in person or by telephone conference or by other means of communication acceptable to the Board of Managers, shall be necessary and sufficient to constitute a quorum for the purpose of taking action by the Board of Managers at any meeting of the Board of Managers. Each Member may authorize any Person by written proxy to act for or on behalf of any Manager that such Member has the right to nominate on all matters in which such Manager is entitled to participate. Each proxy must be signed by a duly authorized officer of the Member. Each Member shall be responsible for the expenses of the Manager(s) appointed by such Member in connection with all meetings of the Board of Managers. Either Member may place items on the agenda for any meeting of the Board of

Managers, and the Chairman of the Board of Managers will call for a vote on any matter at the reasonable request of any Member.

5.6.4 Notice; Waiver. The regular quarterly meetings of the Board of Managers described in Section 5.6.3 shall be held upon not less than five (5) Business Days written notice. Additional meetings of the Board of Managers may be held at the request of any Manager, upon not less than five (5) Business Days' written notice (which may be given via confirmed facsimile, confirmed e-mail or other manner provided for in Section 11.5) or telephonic notice to each Manager (which notice shall be provided to the other Managers by the requesting Manager). The presence of any Manager at a meeting (including by means of telephone conference or other means of communication acceptable to the Board of Managers) shall constitute a waiver of notice of the meeting with respect to such Manager. No action taken by the Managers at any meeting shall be valid unless the requisite quorum is present.

5.6.5 Voting of Managers. Except as otherwise expressly provided in this Agreement, all actions, determinations or resolutions of the Board of Managers shall require the affirmative vote or consent of a majority of the Board of Managers present at any meeting at which a quorum is present; provided, however, that in the event of an evenly split vote, the Chairman of the Board will automatically receive an additional vote to break any such evenly split vote. Except as provided in the prior sentence, each Manager shall be entitled to one (1) vote, and Managers shall be entitled to cast their vote through proxies. The Board of Managers may act without a meeting if the action is consented to in advance or subsequently ratified, in each case in writing, by all of the Managers.

5.6.6 Meetings by Telecommunications. Managers and their proxies shall have the right to participate in all meetings of the Board of Managers by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting. Members and their representatives and proxies shall have the right to participate in all meetings of the Members by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

5.6.7 Reliance by Third Parties. Any Person dealing with the Company, the Micron Member, the Photronics Member, any Manager or any Officer may rely upon a certificate signed by any one Micron Manager and one Photronics Manager as to: (a) the identity of any Manager or Officer; (b) the existence or non-existence of any fact or facts which constitute a condition precedent to acts by the Managers or Officers or in any other manner germane to the affairs of the Company; (c) the Persons who are authorized to execute and deliver any instrument or document for or on behalf of the Company; or (d) any act or failure to act by the Company or as to any other matter whatsoever involving the Company, the Micron Member, the Photronics Member, any Manager or any Officer.



## 5.7 Actions Requiring a Special Vote

Notwithstanding the provisions of Section 5.6.5 or any other provisions of this Agreement, the Company may not, and no Member or Manager may cause the Company to, take any of the following actions (or any other action specified in this Agreement as requiring a Special Vote) without a Special Vote:

(a) effect a merger or consolidation (in a transaction or series of transactions) in which the Company is not the surviving entity or in which the Company is the surviving entity but in either case in which the Membership Interests or Units possessing more than fifty percent (50%) of the total combined Membership Interests or Units are transferred to a Person or Persons different than those who held such interests immediately prior to the merger or consolidation or the initial transaction culminating in such merger or consolidation;

(b) sell or otherwise transfer all or substantially all of the assets of the Company to any other Person, including to another Company Entity;

(c) settle any lawsuit, administrative proceeding, tax claim or other legal proceeding where any Company Entity pays the settlement of a dollar amount that is greater than [\*\*\*\*] of the fair market value (subject to the last paragraph of this Section 5.7, as determined by the Board of Managers) of the assets of the Company Entities taken as a whole;

(d) effect any investment in, or acquisition of, assets or equity interests (including by a merger, consolidation or otherwise) by a Company Entity or Company Entities that comprise greater than [\*\*\*\*] of the fair market value of the assets of the Company Entities taken as a whole, as determined by the Board of Managers (other than in connection with the Company's routine cash management functions);

(e) approve the fairness of pricing terms and the fairness of other terms having an economic impact of any contract, agreement, arrangement or understanding (or any series of related contracts, agreements, arrangements or understandings relating to the same or substantially similar subject matter) entered into after the date hereof between any Company Entity on the one hand, and either Member (or any of their respective Affiliates) on the other hand, that involves actual or potential payments to or from any Company Entity exceeding [\*\*\*\*] in any Fiscal Year or [\*\*\*\*] in the aggregate over the life of the contract, agreement, arrangement or understanding;

(f) approve the fairness of pricing terms and the fairness of other terms having an economic impact of any amendment to any contract, agreement, arrangement or understanding (or any series of related contracts, agreements, arrangements or understandings relating to the same or substantially similar subject matter) between any Company Entity on the one hand, and either Member (or any of their respective Affiliates) on the other hand, which amendment involves (i) a change in actual or potential payments to or from any Company Entity exceeding [\*\*\*\*] in any Fiscal Year or [\*\*\*\*] in the aggregate over the life of the contract, agreement, arrangement or understanding or (ii) a material reduction in the services, rights or

privileges received by any Company Entity under the contract, agreement, arrangement or understanding without proportionate reduction in fees, royalties or other payments to such Member (or its respective Affiliates, provided that no Company Entity shall be deemed a Member Affiliate for the purposes of this provision) thereunder;

(g) authorize any Company Entity to engage in or undertake any material activity that is materially unrelated to the Company's pursuit of the Business (for purposes of this subsection (g), "Business" shall mean all activities related to or reasonably required in connection with the design, development fabrication and sale of advanced photomasks);

(h) effect any distribution from the Company to its Members other than in cash or any distribution in cash other than in accordance with Article 9 of this Agreement;

(i) effect any resolution to wind-up the Company or any Company Entity (unless the relevant governing documents or this Agreement expressly provide for "automatic" dissolution upon the occurrence of specified events);

(j) effect the filing of any application or petition for bankruptcy, reorganization or other similar proceedings under Applicable Law with respect to the Company or any Company Entity;

(k) file any lawsuit by the Company or any Company Entity against any Person that is a customer of Photonics;

(l) suspend the Company's operations for a period of greater than [\*\*\*\*];

(m) issue any additional Units or Membership Interests, or securities convertible into Units or Membership Interests, or admit any new Member other than pursuant to the terms of this Agreement;

(n) change the Company's Fiscal Year; or

(o) [\*\*\*\*].

#### 5.8 Compensation of Managers

The Managers shall not be entitled to any compensation in their capacities as Managers unless otherwise agreed upon in writing by all of the Members.

## 5.9 Other Activities

Subject to Applicable Law and the provisions of the Transaction Documents, the Members, their respective Affiliates and the Managers may engage or invest in, and devote their time to, any other business venture or activity of any nature and description (independently or with others), whether or not such other activity may be deemed or construed to be in competition with the Company. Neither the Company nor any Member, Affiliate of a Member, or Manager shall have any right by virtue of this Agreement or the relationship created hereby in or to such other venture or activity of any Member or its Affiliates (or to the income or proceeds derived therefrom), and the pursuit thereof, even if competitive with the business of the Company, shall not be deemed wrongful or improper.

## 5.10 Accounting; Records and Reports

5.10.1 Accounting and Fiscal Year. The books, records and accounts of the Company, including for all applicable tax purposes, will be maintained in accordance with such methods of accounting as shall be determined by the Board of Managers. The fiscal year of the Company ("Fiscal Year"), including each of the fiscal quarters (the "Fiscal Quarters") and each of the fiscal months ("Fiscal Months") thereof, shall correspond to that of Micron for as long as Micron and/or an Affiliate of Micron holds a fifty percent (50%) or greater Percentage Interest in the Company in the aggregate. The Company shall have a taxable year which complies with Section 706(b) of the Code.

5.10.2 Books and Records. The Board of Managers shall cause to be kept, at such location as the Board of Managers shall reasonably deem appropriate, full and proper ledgers, other books of account, and records of all receipts and disbursements and other financial activities of the Company in accordance with Micron's record retention policies. The Board of Managers shall also cause to be kept at such location copies of each of the following:

(a) a current list of the full name and last known address of each Member, and the capital account, number of Units and Percentage Interest held by each Member;

(b) a current list of the full name and last known address of each Manager;

(c) the Certificate of the Company, any amendments to the Certificate, and executed copies of any powers of attorney granted for the purpose of executing the Certificate;

(d) the Company's federal, state and local income tax returns and reports, if any, for the seven (7) most recent Fiscal Years;

(e) this Agreement and any amendments to this Agreement;

(f) financial statements of the Company for the five (5) most recent Fiscal Years; and

(g) minutes of all meetings of the Board of Managers and the Members and any written consents of the Board of Managers or the Members for actions taken without a meeting.

5.10.3 Reports. The Board of Managers shall also cause to be sent to each Member of the Company, the following:

(a) within forty-five (45) days after the Effective Date, the Company shall provide each Member with an unaudited balance sheet of the Company as of the Effective Date;

(b) within 180 days following the end of each Fiscal Year, Schedule K-1 to IRS Form 1065 and such other information as may be reasonably required by the Members for preparation of their respective federal, state and local income or franchise tax returns;

(c) a copy of the Company's federal, state and local income tax or information returns for each Fiscal Year, concurrent with the filing of such returns;

(d) within seventy-five (75) days after the end of each Fiscal Year or as soon thereafter as reasonably practicable, the Company shall provide each Member with an audited balance sheet, income statement and statement of cash flows for and as of the last day of the Fiscal Year then ended, audited in accordance with GAAS by an auditor agreed to by Micron; provided, that Photronics shall reimburse the Company for the cost of such audit;

(e) within forty-five (45) days after the end of each Fiscal Quarter or as soon thereafter as reasonably practicable, the Company shall provide each Member with an unaudited balance sheet, income statement and statement of cash flows for and as of the last day of the year or quarter (as appropriate) then ended, prepared in accordance with GAAP, as well as such other financial information as any Member may reasonably request to enable such Member and its Affiliates to prepare their consolidated quarterly and annual financial statements; and

(f) within a reasonable period of time, notice of any material litigation filed against the Company or any written claim by a Governmental Authority of any material violation of any state, federal or foreign law, statute, rule or regulation.

5.10.4 Access to Company Books and Records.

(a) To the extent not in violation of Applicable Law, Members (personally or through an authorized representative) may, for purposes reasonably related to their interests in the Company, during reasonable business hours (i) examine and copy (at their own cost and expense) the books and records of the Company, including the records listed in

Section 5.10.2, and (ii) have access to the Company's management, internal and external accountants and attorneys, plans, properties and other assets to conduct due diligence and other investigations regarding the Business and assets of the Company at such Member's sole expense, and the Company shall reasonably cooperate with such Member in such due diligence and investigations. Upon reasonable notice, Photronics may also request reasonable short-term and temporary access to the properties of the Company by Photronics customers for technology review and validation. Any information obtained as a result of this Section 5.10.4 shall be used by a Member solely for purposes reasonably related to such Member's participation in the Company and shall be subject to the Non-Disclosure Agreement.

(b) Any Member's request for documents or request to inspect or copy documents or have access to the Company's management, plans, properties and other assets under this Section 5.10.4 (i) may be made by that Member or that Member's authorized representative and (ii) shall be made in writing to the General Manager and shall state the purpose of such demand. If a Member is not satisfied with the response of the General Manager, the Member may make such request of the Technology Steering Committee and/or the Board of Managers.

#### 5.11 Indemnification and Liability of the Managers

5.11.1 Indemnification. The Company shall indemnify and hold harmless each Manager, the General Manager and all other Officers (individually, an "Indemnitee") to the fullest extent permitted by Applicable Law from and against any and all losses, claims, demands, costs, damages, liabilities, whether joint or several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts (each an "Indemnified Loss") arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in which the Indemnitee may be involved as a defendant, or threatened to be involved as a defendant (other than all claims, demands, actions, suits or proceedings brought by the Member who nominated such Manager, if applicable), relating to the performance or nonperformance of any act concerning the activities of the Company or by reason of the Indemnitee's status as a Manager, General Manager or Officer, as applicable, regardless of whether the Indemnitee retains such status at the time any such Indemnified Loss is paid or incurred, if (a) the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company and, in the case of a criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful, and (b) the Indemnitee's conduct did not constitute an act or omission which involved intentional misconduct or a knowing violation of the law. The termination of an action, suit or proceeding by judgment, order, settlement, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption or otherwise constitute evidence that the Indemnitee acted in a manner contrary to that specified in clauses (a) or (b) above.

5.11.2 Expenses. Expenses incurred by an Indemnitee in defending any claim, demand, action, suit or proceeding subject to this Section 5.11 shall be advanced by the Company prior to the final disposition of such claim, demand, action, suit, or proceeding.

5.11.3 Company Expenses. Any indemnification provided hereunder shall be satisfied solely out of the Company Assets, as an expense of the Company. No Member shall be subject to liability by reason of these indemnification provisions.

5.11.4 No Other Rights. The provisions of this Section 5.11 are for the benefit of the Indemnitees and shall not be deemed to create any rights for the benefit of any other Person; provided, however, that the indemnification rights provided in this Section 5.11 will inure to the benefit of the heirs, legal representatives, successors, assigns and administrators of the Indemnatee.

5.11.5 No Liability. No Indemnatee shall be liable to the Company or to any Member for any losses sustained or liabilities incurred as a result of any act or omission of any Indemnatee if (a) the Indemnatee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company and, in the case of a criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful, and (b) the Indemnatee's conduct did not constitute an act or omission which involved intentional misconduct or a knowing violation of the law.

5.11.6 Reliance Upon Agreement. To the extent that any Manager, General Manager or Officer (each, a "Responsible Party") has, under Applicable Law or in equity, duties (including, without limitation, fiduciary duties) to the Company, any Member or other Person bound by the terms of this Agreement, such Responsible Parties acting in accordance with this Agreement shall not be liable to the Company, any Member, or any such other Person for its good faith reliance on the provisions of this Agreement.

5.11.7 No Fiduciary Duties.

(a) In connection with the determination of any and all matters presented for action to the Members, the Board of Managers or the Technology Steering Committee, as applicable, the Members acknowledge and agree that each Member will be acting on its own behalf and each Representative serving on the Board of Managers or the Technology Steering Committee will be acting on behalf of the Member that appointed such Representative.

(b) Each Member may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting, in its own interest (subject to the express terms of any contract entered into by such Member) without regard to the interest of the other Member or the Company or any of its subsidiaries, and, subject to Section 5.11.7(E), each Representative may act, and, to the fullest extent permitted by Applicable Law, will be protected for acting, at the direction or control of, or in a manner that such Representative believes is in the best interest of, the Member that appointed the Representative without regard to the interest of the other Member or the Company or any of its subsidiaries. Further, each Member may, to the fullest extent permitted by Applicable Law (subject to the express terms of any contract entered into by such Member), make decisions and exercise direction and control over the decisions of the

Representatives appointed by such Member without duty to or regard for the interests of the other Member or the Company or any of its subsidiaries.

(c) The Company, on its own behalf and on behalf of each of its subsidiaries, and each Member waive, to the fullest extent permitted by Applicable Law, (1) any claim or cause of action against any Member or Manager or member of the Technology Steering Committee appointed by a Member based on the determination of any and all matters presented for action to the Members, the Board of Managers or the Technology Steering Committee, as applicable, (2) breach of fiduciary duty, duty of care, duty of loyalty or any other duty or (3) breach of the Act; provided, however, the foregoing will not limit any Member's obligation under or liability for breach of the express terms of this Agreement or any other agreement that they have entered into with the Company or any of its subsidiaries or the other Member.

(d) The Company and each Member, by entering into this Agreement, expressly acknowledge that neither Member nor any of its designated Managers shall owe any fiduciary duties to the Company or to the other Member by virtue of such Member's ownership of a majority of the Units of the Company or such Member's Managers' positions on, and majority control of, the Board of Managers or the Technology Steering Committee.

(e) The term "Representative" shall mean, with respect to a Member, the Managers and members of the Technology Steering Committee appointed by such Member, but not including, only for purposes of Section 5.11.7(c)(2), the General Manager or any other officer of the Company (and each such officer shall be bound by such fiduciary and other duties (including the duty of care and the duty of loyalty) as would apply to an officer having comparable authority and duties under the DGCL).

#### 5.12 General Manager

5.12.1 General Manager. The Company will have a General Manager (the "General Manager") to be selected by Micron with input from the Board of Managers and Photronics; provided, however, that if the Percentage Interest of Micron falls below [\*\*\*\*] then the General Manager will (after input from the Board of Managers and Micron) be selected by Photronics if Photronics' Percentage Interest is above [\*\*\*\*] or otherwise by the Board of Managers.

5.12.2 Duties and Powers of the General Manager. The General Manager shall, subject to the control of the Board of Managers, have general supervision, direction and control of the day-to-day affairs of the Company and shall report directly to the Board of Managers. Unless limited by the Board of Managers or this Agreement, he or she shall have the general powers and duties of management usually vested in the office of chief executive officer of corporations and shall have such other powers and duties as may be prescribed by the Board of Managers. Only the General Manager, the Board of Managers or individuals authorized by the General Manager or the Board of Managers shall have the ability to enter into binding agreements or approve payments on behalf of the Company.

5.12.3 Other Officers; Employment; Removal. The Company may also have a chief financial officer, a secretary and such other officers as determined by the Board of Managers, each of whom will be accountable to the General Manager (the General Manager and any other officers elected in accordance with this Section 5.12.3, each, an "Officer" and collectively, the "Officers"). The General Manager and any other Officer may be removed at any time upon an affirmative vote of the majority of the Board of Managers.

5.12.4 Duties and Powers of Chief Financial Officer. Any chief financial officer of the Company shall keep and maintain, or cause to be kept and maintained, books and records of accounts of the properties and business transactions of the Company, including accounts of its assets, liabilities, receipts, disbursements, gains, losses and capital. He or she shall disburse the funds of the Company as may be ordered by the Board of Managers and shall render to the Board of Managers at their request an account of all his or her transactions as chief financial officer and of the financial condition of the Company. Authorizations with respect to the Company's depositories, disbursement of funds and related banking matters shall be as set forth in resolutions of the Board of Managers.

5.12.5 Duties and Powers of Secretary.

(a) Any secretary of the Company shall attend (in person or by telephone conference) all meetings of the Board of Managers and all meetings of the Members (whether any of such meetings are in person, by telephone conference or both) and record all votes and the minutes of all proceedings in a book to be kept for that purpose, and shall perform like duties for any standing committees when requested by such committee.

(b) Any secretary of the Company shall keep, or cause to be kept, at the principal executive office or at the office of the Company's transfer agent or registrar, as determined by resolution of the Board of Managers, a register, or a duplicate register, showing the names of all Members and their addresses, Economic Interests and Percentage Interests, the number and date of certificates issued for the same (if any), and the number and date of cancellation of every certificate surrendered for cancellation (if any).

5.12.6 General Provisions Regarding Officers.

(a) The Board of Managers may, from time to time, designate Officers of the Company and delegate to such Officers such authority and duties as the Board of Managers may deem advisable and may assign titles (including, without limitation, president, vice-president and/or treasurer) to any such Officer. Unless the Board of Managers otherwise determines, if the title assigned to an Officer of the Company is one commonly used for Officers of a business corporation, then, subject to the terms of this Agreement, the assignment of such title shall constitute the delegation to such Officer of the authority and duties that are customarily associated with such office. Any number of titles may be held by the same Officer.

(b) Any Officer to whom a delegation is made pursuant to the foregoing shall serve in the capacity delegated unless and until such delegation is revoked by the



Board of Managers for any reason or no reason whatsoever, with or without cause, or such Officer resigns.

#### 5.13 Technology Steering Committee

The Company will establish a Technology Steering Committee (the "Technology Steering Committee") in accordance with the provisions of the Technology License Agreement.

#### 5.14 Non-Disclosure Agreement

The parties acknowledge and agree that the contents and terms and conditions of all of the Transaction Documents and all proprietary or nonpublic information disclosed by one party to another party in connection with the Transaction Documents is subject to the Non-Disclosure Agreement.

#### 5.15 Maintenance of Insurance

The Company shall at all times be covered by insurance of the types and in the amounts set forth on Exhibit D. Such insurance coverage may be provided through the coverage under one or more insurance policies maintained by the Company or by either Member. A certificate of insurance will be provided to the Members annually evidencing coverage.

#### 5.16 Related Party Agreements

Micron, Photronics and the Company agree that any contract, agreement, amendment, arrangement or understanding entered into after the date hereof between any Company Entity on the one hand, and either Member (or any of their respective Affiliates) on the other hand, shall be on an arms-length basis.

### ARTICLE 6. OPERATIONS

#### 6.1 Headquarters

The Company's world headquarters shall be in Boise, Idaho.

## 6.2 Surplus Equipment

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## 6.3 Printability Studies

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## 6.4 Operations Plan; Annual Budget

The Company will operate in accordance with an operations plan, which plan shall be initially developed and agreed upon by Micron and Photronics, and amended from time to time by the Board of Managers and in no event less than annually. The Board of Managers will also be responsible for approving an annual budget (the "Annual Budget") on at least an annual basis.

# ARTICLE 7. DISPOSITION AND TRANSFERS OF INTERESTS

## 7.1 Holding of Membership Interest

For so long as Micron or Photronics, directly or indirectly, maintains a Membership Interest in the Company, Micron or Photronics, as applicable, must own and hold such Membership Interest either (a) itself or (b) through one or more wholly owned (including indirect wholly owned) subsidiaries.

## 7.2 Transfer Moratorium

No Member may Transfer all or any portion of its Membership Interest to any other Person without the prior written consent of the other Member and any such attempted Transfer shall be deemed void and of no force or effect, nor shall Micron or Photronics without the prior written consent of the other sell or transfer, or allow to be sold or transferred, or in any way dispose of, its ownership interest, either direct or indirect, in any wholly owned subsidiary (including any indirect wholly owned subsidiary) that owns, directly or indirectly, the Membership Interest held by Micron or Photronics, respectively, in each case other than [\*\*\*\*].

## 7.3 Purchase of Remaining Interest

7.3.1 If the Percentage Interest of a Member (the "Minority Member") drops to [\*\*\*\*] or less and remains at or below [\*\*\*\*] for more than six (6) consecutive months, the other Member or a wholly owned subsidiary thereof (such other Member or Affiliate thereof, the "Majority Member") shall have the option to purchase all of the remaining Interest of the Minority Member at a cash purchase price equal to the Option Price, subject to the terms and conditions set forth below. The Majority Member may exercise this purchase option by delivering a written notice of its intent to exercise to the Minority Member. The closing of the

purchase and sale of the Minority Member's remaining Interest (the "Minority Closing") shall take place as of the last day of the Fiscal Month in which the notice is delivered (unless such notice is delivered within the last ten (10) days of the end of a Fiscal Month, in which case the Minority Closing shall take place on the last day of the first full Fiscal Month thereafter). Such Minority Closing shall take place at the principal office of the Company or at such other location as the Majority Member and the Minority Member may mutually determine. At the Minority Closing, (i) the Minority Member shall transfer its remaining Interest in the Company to the Majority Member, free and clear of any liens or encumbrances, (ii) the Majority Member shall pay the Minority Member the Minority Closing Price by wire transfer of immediately available funds and (iii) the Minority Member shall deliver to the Majority Member such instrument or instruments of conveyance as the Majority Member reasonably requests.

7.3.2 Upon the Minority Closing, the Majority Member shall pay to the Minority Member a sum (the "Minority Closing Price") equal to the product of (i) the difference of [\*\*\*\*]. Within five (5) Business Days after the month-end balance sheet becomes available (prepared in accordance with GAAP consistently applied and as of the last day of the Fiscal Month in which the Minority Closing occurred), [\*\*\*\*]. If the Option Price is greater than the Minority Closing Price, the Majority Member shall deliver the difference to the Minority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation. If the Option Price is less than the Minority Closing Price, the Minority Member shall refund the difference to the Majority Member by wire transfer of immediately available funds within three (3) Business Days of such recalculation.

#### 7.4 Change in Control of Photronics

7.4.1 [\*\*\*\*].

7.4.2 [\*\*\*\*].

7.4.3 [\*\*\*\*].

7.4.4 [\*\*\*\*].

#### 7.5 Purchase and Sale Agreement

In the event of any purchase and sale of Membership Interests under Section 7.3, 7.4 or 8.5.3, the parties thereto shall enter into a commercially reasonable agreement to implement such purchase and sale. Such agreement will include that (a) the selling Member is released from any obligation to make future capital contributions to the Company and (b) income and loss for the year in which such closing occurs will be allocated to the selling Member on a basis that reflects the actual operations of the Company's business for the period prior to the Closing and will not be allocated based on the product of the Company's income and loss for the entire year times that percentage of the year in which the selling Member held a Membership Interest.

ARTICLE 8.  
DISSOLUTION, LIQUIDATION, AND TERMINATION OF THE COMPANY

8.1 Limitations

The Company may be dissolved, liquidated, and terminated only pursuant to the provisions of this Article 8, and the parties hereto do hereby irrevocably waive, to the extent permitted by Applicable Law, any and all other rights they may have to cause a dissolution, liquidation or termination of the Company or a sale or partition of any or all of the Company Assets in connection with such dissolution or liquidation.

8.2 Exclusive Causes

Notwithstanding the Act, the following and only the following events shall cause the Company to be dissolved, liquidated, and terminated:

(a) the election of all of the Members;

(b) the entry of a decree of judicial dissolution pursuant to Section 18-802 of the Act;

(c) any Member's election, if the Company ceases operation for more than six (6) months unless due to Force Majeure (as defined in the Supply Agreement dated as of the date hereof between Photronics and Micron);

(d) Photronics' election following a material breach of this Agreement or any other material provision of any of the Transaction Documents by Micron and, if the material breach is capable of cure, such material breach continues uncured for a period (i) specified in such Transaction Document or (ii) of ninety (90) days of a written notice from Micron to Photronics of such material breach if no cure period is specified in such Transaction Document; provided that if the breach in the case of (ii) is capable of being cured and the breaching party has worked diligently and in good faith since the receipt of the notice to cure such breach, but has not cured the breach during the allotted time, the cure period will be extended for an additional thirty (30) days;

(e) Micron's election following a material breach of this Agreement or any other material provision of any of the Transaction Documents by Photronics; and, if the material breach is capable of cure, such material breach continues uncured for a period (i) specified in such Transaction Document or (ii) of ninety (90) days of a written notice from Micron to Photronics of such material breach if no cure period is specified in such Transaction Document; provided that if the breach in the case of (ii) is capable of being cured and the breaching party has worked diligently and in good faith since the receipt of the notice to cure such breach, but has not cured the breach during the allotted time, the cure period will be extended for an additional thirty (30) days;

(f) either Member's election upon at least [\*\*\*\*] notice prior to (i) the ten-year anniversary of this Agreement or (ii) the last date of each successive five-year period following the ten-year anniversary of this Agreement, such termination to be effective upon such ten-year anniversary or the last date of such five-year period, as applicable;

(g) the election by a Member with a Percentage Interest of at least 90% to dissolve and wind up the affairs of the Company (which election shall not require the consent of the other Member), upon delivery of written notice of such election to the Company and the other Member;

(h) the occurrence of any other event that, under the Act, makes it unlawful, impossible or impractical to carry on the business of the Company;

(i) the election by either Member to dissolve and wind up the affairs of the Company upon (a) the occurrence of a bankruptcy of the Company, provided that the Member making such election is not in default of any payment obligation to the Joint Venture Company or (b) the bankruptcy, dissolution or liquidation of a Member, and further provided that, in either event, such election shall be made only after entry by the court presiding over the bankruptcy of an order granting relief from the automatic stay to make such election to the Member making such election; or

(j) [\*\*\*\*].

To the fullest extent permitted by law, any dissolution of the Company other than as provided in this Section 8.2 shall be a dissolution in contravention of this Agreement. The parties agree that the failure of a Member to make Base Contributions (but not the failure of a Member to make Excess Contributions) or the Transfer of Membership Interests by a Member in contravention of this Agreement shall, among other matters, constitute a material breach of this Agreement.

### 8.3 Effect of Dissolution

The dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until it has been wound up and its assets have been distributed as provided in Section 8.5.1 or 8.5.3 of this Agreement. Notwithstanding the dissolution of the Company, prior to the termination of the Company, the business of the Company and the affairs of the Members, as such, shall continue to be governed by this Agreement.

### 8.4 No Capital Contribution Upon Dissolution

Each Member shall look solely to the Company Assets for all distributions with respect to the Company, its Capital Contribution thereto, its Capital Account and its share of Net Profits or Net Losses, and shall have no recourse therefor (upon dissolution or otherwise) against any other Member. Accordingly, if any Member has a deficit Capital Account balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the

year during which the liquidation occurs), then such Member shall have no obligation to make any Capital Contribution with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever.

## 8.5 Liquidation

8.5.1 Upon dissolution of the Company, the Board of Managers (or other Person(s) designated by a decree of court) shall act as the "Liquidators" of the Company. The Liquidators shall liquidate the Company Assets, and after allocating (pursuant to Article 10 of this Agreement) all income, gain, loss and deductions resulting therefrom, shall apply and distribute the proceeds thereof as follows:

(a) first, to (i) the payment of the obligations of the Company to third parties, including, but not limited to and on a pari passu basis, taxes, debts, lease and other payments to Persons other than Members or their Affiliates; (ii) the expenses of liquidation; and (iii) the setting up of any reserves for contingencies, debts or liabilities to Persons other than the Members or their Affiliates, whether the whereabouts of the creditor is known or unknown, which the Board of Managers may consider necessary;

(b) thereafter, amounts due to either Member or their respective Affiliates (other than a Company Entity) pursuant to intellectual property license agreements, consulting agreements, services agreements, subcontracting agreements, lease agreements and other similar agreements; and

(c) thereafter, to the Members in proportion to the positive balances in the Members' respective Capital Accounts, determined after taking into account all Capital Account adjustments for the Company's taxable year during which such liquidation occurs, by the end of the taxable year in which such liquidation occurs or, if later, within ninety (90) days after the date of the liquidation.

8.5.2 Notwithstanding Section 8.5.1 of this Agreement, in the event that the Board of Managers determines that an immediate sale of all or any portion of the Company Assets would cause undue loss to the Members, the Board of Managers, in order to avoid such loss to the extent not then prohibited by the Act, may either defer liquidation of and withhold from distribution for a reasonable time any Company Assets except those necessary to satisfy the Company's debts and obligations, or, subject to Section 9.4, distribute the Company Assets to the Members in kind (in accordance with the second sentence of Section 8.5.1).

8.5.3 Notwithstanding Section 8.5.1 or 8.5.2 of this Agreement, in the event of termination pursuant to Section 8.2 (other than pursuant to Section 8.2(d)) Micron shall have the right, exercisable within thirty (30) days of such termination, to acquire, free and clear of all liens and other encumbrances (i) from Photronics, Photronics' Membership Interest at a purchase price equal [\*\*\*\*]. The foregoing purchase price shall be determined (and adjusted as necessary) in the manner provided in Section 7.4.3.

ARTICLE 9.  
DISTRIBUTIONS

9.1 Distributions of Cash Available for Distribution

9.1.1 Use of Cash. Subject to applicable legal and contractual restrictions and to Section 9.2 and Article 8, Company cash will be treated as follows (in the following order of priority):

(a) First, cash will be retained in the Company in an amount sufficient to fund the Company's operations. Such amount will take into consideration scheduled debt service, lease and other payments to third parties and payments of amounts due to either Member or their respective Affiliates pursuant to intellectual property license agreements, consulting agreements, services agreements, subcontracting agreements, lease agreements and other similar agreements; and

(b) Second, subject to Section 9.1.2, any excess cash remaining will be distributed at the discretion of the Board of Managers to Micron and Photronics pro rata based on their Percentage Interests at the time of such distribution.

9.1.2 Excess Allocations. Subject to Section 9.2 and Article 8, to the extent a Member's Percentage Interest is adjusted for any reason as provided in this Agreement and the aggregate allocations of Net Profit (and similar items) net of any allocations of Net Losses (and similar items) made to such Member pursuant to Article 10 on a cumulative basis through the effective time of such adjustment exceeded: (a) the aggregate distributions made to such Member pursuant to Sections 9.1.1(b) and 9.4 plus (b) all amounts previously distributed to such Member pursuant to this Section 9.1.2 through such effective time (collectively, an "Excess Allocation"), then prior to the making of any further distributions pursuant to Section 9.1.1(b), distributions shall first be made pro rata among the Members according to their respective Excess Allocation amounts existing at such time, to the extent thereof.

9.2 Distributions Upon Liquidation

Distributions made in conjunction with the final liquidation of the Company shall be applied or distributed as provided in Article 8 hereof.

9.3 Withholding

The Company may withhold amounts in respect of allocations or distributions if it is required to do so by any Applicable Law, and each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member such amount of federal, state, local or foreign taxes that the Tax Matters Partner determines the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement, provided that the Tax Matters Partner shall provide Photronics with twenty (20) Business Days advance written notice of the amount of any withholding to be made

in respect of allocations or distributions to Photronics (or any Affiliate of Photronics) which notice shall demonstrate the calculation thereof. Any amount paid on behalf of or with respect to a Member pursuant to this Section 9.3 shall constitute a loan by the Company to such Member, which loan shall be repaid by such Member within twenty (20) Business Days after notice from the Company that such payment must be made unless: (i) the Company withholds such payment from a distribution that would otherwise be made to the Company or (ii) the Tax Matters Partner determines, in its sole discretion, that such payment may be satisfied out of Company Assets available therefor which would, but for such payment, be distributed to the Member. Any amounts withheld pursuant to this Section 9.3 shall be treated as having been distributed to such Member. Each Member hereby represents that it has provided to the Company IRS Form W-9 and that it has provided and will from time to time provide such other forms or documents as may reasonably be required in order to establish the status of such Member for purposes of the tax laws of any applicable jurisdiction. Each Member agrees to indemnify and hold harmless the Company from any liability imposed on the Company for (i) any action taken by the Company in reliance upon such representation of tax withholding status or (ii) any failure to withhold from any amount distributable or allocable, or deemed distributable or allocable, to such Member pursuant to this Agreement. A Member's obligations hereunder shall survive the dissolution, liquidation or winding up of the Company. If a Governmental Authority asserts in writing to any Person that the Company failed to withhold Tax at the time and/or in the amounts required by Chapter 3 of the Code or comparable provisions of other Tax laws in respect of Photronics and/or its Affiliates, then Photronics and/or its Affiliates, as applicable, shall promptly upon receipt of a copy of such writing accompanied by a written notice from the Company specifying that a payment is required pursuant to this Section 9.3 pay to such Governmental Authority an amount in full satisfaction of the amount of Taxes so asserted by such Governmental Authority. If Photronics and its Affiliates do not promptly pay such amount to such Governmental Authority, then, unless Photronics provides satisfactory written evidence of settlement in full of the matter asserted by the Governmental Authority, the Company shall withhold such amount from the next distribution(s) to Photronics, shall promptly pay such withheld amounts over to such Governmental Authority in payment of such asserted liability for Taxes and shall treat the amounts so withheld and paid over as actually distributed to Photronics.

#### 9.4 Distributions in Kind

Subject to Section 8.5.3, no right is given to any Member to demand or receive any distribution of property other than cash as provided in this Agreement. Upon a vote of the Board of Managers and a Special Vote, the Board of Managers may determine (subject to the approval of the Special Vote) to make a distribution in kind of Company Assets to the Members, and such Company Assets shall be distributed in such fashion as to ensure that the fair market value thereof (as determined by the Board of Managers and approved by the Special Vote) is distributed, and any items of gain or loss resulting from such distribution are allocated, in accordance with this Article 9 and Articles 6 and 10 hereof.



## 9.5 Limitations on Distributions

Notwithstanding any provision to the contrary contained in this Agreement, neither the Company nor the Board of Managers, on behalf of the Company, shall be required to or shall knowingly make a distribution to any Member or the holder of any Economic Interest on account of its Membership Interest or Economic Interest in the Company (as applicable) in violation of the Act or other Applicable Law.

### ARTICLE 10. ALLOCATIONS OF NET PROFITS AND NET LOSSES

#### 10.1 General Allocation of Net Profits and Losses

10.1.1 Net Profits and Net Losses shall be determined and allocated with respect to each Fiscal Year or other period of the Company as of the end of such Fiscal Year or other period and at such other times, if any, as the Board of Managers shall determine is appropriate for purposes of administering this Agreement. Subject to the other provisions of this Agreement, an allocation to a Member of a share of Net Profits or Net Losses shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Profits or Net Losses.

10.1.2 Subject to the other provisions of this Article 10, Net Profits, Net Losses and any other items of income, gain, loss and deduction for any Fiscal Year shall be allocated in proportion to the Members' respective Percentage Interests.

#### 10.2 Regulatory Allocations

Notwithstanding the foregoing provisions of this Article 10, the following special allocations shall be made in the following order of priority:

10.2.1 If there is a net decrease in Company Minimum Gain during a Company taxable year, then, to the extent required by Regulations Section 1.704-2(f), each Member shall be allocated items of Company income and gain for such taxable year (and, if necessary, for subsequent years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g)(2). This Section 10.2.1 is intended to comply with the minimum gain chargeback requirement of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

10.2.2 If there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Company taxable year, each Member who has a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall, to the extent required by Regulations Section 1.704-2(i)(4), be specially allocated items of Company income and gain for such taxable year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined

in a manner consistent with the provisions of Regulations Section 1.704-2(g)(2). This Section 10.2.2 is intended to comply with the partner nonrecourse debt minimum gain chargeback requirement of Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

10.2.3 If any Member unexpectedly receives an adjustment, allocation, or distribution of the type contemplated by Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), and after receiving such adjustment, allocation, or distribution, such Member has an Adjusted Capital Account Deficit, items of income and gain shall be allocated to all such Members (in proportion to the amounts of their respective Adjusted Capital Account Deficits) in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit of such Member as quickly as possible. This Section 10.2.3 is intended to constitute a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

10.2.4 If the allocation of Net Loss to a Member as provided in Section 10.1 would create or increase an Adjusted Capital Account Deficit for such Member, there shall be allocated to such Member only that amount of Net Loss as will not create or increase an Adjusted Capital Account Deficit. The Net Loss that would, absent the application of the preceding sentence, otherwise be allocated to such Member shall be allocated to the other Members in accordance with their relative Percentage Interests, subject to the limitations of this Section 10.2.4. If, after the allocation of Net Loss pursuant to the preceding two sentences, no additional amount of Net Loss can be allocated to any Member without creating or increasing an Adjusted Capital Account Deficit for such Member, then Net Loss shall be allocated to the Members in accordance with their relative Percentage Interests. This Section 10.2.4 is intended to implement the alternate test for economic effect set forth in Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

10.2.5 To the extent that an adjustment to the adjusted tax basis of any Company Asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of its interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Members to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

10.2.6 The Nonrecourse Deductions for each taxable year of the Company shall be allocated to the Members in proportion to their Percentage Interests.

10.2.7 The Member Nonrecourse Deductions shall be allocated each year to the Member that bears the economic risk of loss (within the meaning of Regulations Section

1.752-2) for the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable.

10.2.8 The allocations set forth in Sections 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.5, 10.2.6 and 10.2.7 (the "Regulatory Allocations") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Section 10.1.2, the Regulatory Allocations shall be taken into account by the Board of Managers in specially allocating other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred. In exercising its discretion under this Section 10.2.8, the Board of Managers shall take into account future Regulatory Allocations that, although not yet made, are likely to offset other Regulatory Allocations previously made.

### 10.3 Tax Allocations

10.3.1 Except as provided in Section 10.3.2, for income tax purposes under the Code and the Regulations and for purposes of applicable state and local law, each Company item of income, gain, loss and deduction shall be allocated between the Members in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to this Article 10.

10.3.2 Tax items with respect to Company Assets that are contributed to the Company with a Gross Asset Value that varies from its basis in the hands of the contributing Member immediately preceding the date of contribution shall be allocated between the Members for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) or, if applicable, corresponding provisions of applicable state or local law so as to take into account such variation. The Company shall account for such variation under any permissible method under Section 704(c) as determined by the Tax Matters Partner. If the Gross Asset Value of any Company Asset is adjusted pursuant to subsection (2) of the definition of "Gross Asset Value," subsequent allocations of income, gain, loss and deduction with respect to such Company Asset shall take account of any variation between the adjusted basis of such Company Asset for federal income tax purposes and its Gross Asset Value under any permissible method under Section 704(c) as determined by the Tax Matters Partner. Any tax credits will be allocated to the Members in accordance with the requirements of applicable tax law. Allocations pursuant to this Section 10.3.2 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses and any other items or distributions pursuant to any provision of this Agreement.

#### 10.4 Other Provisions

10.4.1 For any Fiscal Year during which any Membership Interest or Economic Interest or portion thereof is Transferred between the Members or to another Person or is otherwise disposed of or acquired, or there is for any other reason a change in the Members' respective Percentage Interests, the portion of the Net Profits, Net Losses and other items of income, gain, loss, deduction and credit with respect to such Membership Interest or Economic Interest or portion thereof shall be allocated and, to the extent necessary apportioned, under any method allowed pursuant to Section 706 of the Code and the applicable Regulations, as reasonably determined by the Board of Managers; provided, that the Board of Managers shall utilize consistent methods with respect to the same or substantially similar transactions and items in making such allocations or apportionments with respect to all such changes in the Members' respective Percentage Interests, whether occurring within a single Fiscal Year or in different Fiscal Years.

10.4.2 In the event that the Code or any Regulations require allocations of items of income, gain, loss, deduction or credit different from those set forth in this Article 10, the Board of Managers is hereby authorized to make new allocations in reliance on the Code and such Regulations, and no such new allocation shall give rise to any claim or cause of action by any Member, provided that such allocations are consistent with the advice of the Company Accountant or tax counsel and are not likely to alter materially the amounts which each Member is entitled to receive under the terms of this Agreement.

10.4.3 For purposes of determining a Member's proportional share of the Company's "excess nonrecourse liabilities" within the meaning of Regulations Section 1.752-3(a)(3), each Member's interest in Net Profits shall be such Member's Percentage Interest.

#### 10.4.4 Section 482 Adjustments.

(a) Company Section 482 Adjustment. If the Internal Revenue Service or any applicable state or local taxing authority reallocates an item of income, deduction or loss to the Company pursuant to Code Section 482 or any similar rule or principle of law (a "Company Section 482 Allocation"), and a Member or an Affiliate of such Member has a corresponding "correlative item," as determined under Regulations Section 1.482-1(g) (the "Member Correlative Item"), the item of income, deduction or loss constituting such Company Section 482 Allocation shall be specially allocated to and reflected in the Capital Account of the Member who received (or whose Affiliate received) such Member Correlative Item, and such Member shall be treated as making any corresponding deemed capital contribution or receiving any corresponding deemed distribution, with such deemed capital contribution or distribution, as the case may be, reflected in the Capital Account of such Member.

(b) Member Section 482 Adjustment. If the Internal Revenue Service or any applicable state or local taxing authority reallocates an item of income, deduction or loss to a Member or an Affiliate of such Member pursuant to Code Section 482 or any similar rule or

principle of law (a "Member Section 482 Allocation"), and the Company has a corresponding "correlative item," as determined under Regulations Section 1.482-1(g) (the "Company Correlative Item"), such Company Correlative Item shall be specially allocated to and reflected in the Capital Account of the Member that received (or whose Affiliate received) such Member Section 482 Allocation, and such Member shall be treated as making any corresponding deemed capital contribution or receiving any corresponding deemed distribution, with such deemed capital contribution or distribution, as the case may be, reflected in the Capital Account of such Member.

(c) Corresponding Treatment if Foreign Adjustment. If any taxing authority outside the United States makes an adjustment to the income, deduction or loss of the Company or a Member (or an Affiliate of a Member) that is analogous to an adjustment under Code Section 482, the Board of Managers shall use commercially reasonable efforts to handle any affected items of the Company in a manner analogous to the treatment of an adjustment under Code Section 482 as set forth in Sections 10.4.4(a) and 10.4.4(b) above.

10.4.5 The Members acknowledge and are aware of the income tax consequences of the allocations made by this Article 10 and hereby agree to be bound by the provisions of this Article 10 in reporting their shares of the Company's income and loss for federal, state and local income tax purposes. Without limiting the foregoing sentence, each Member acknowledges that, while it presently has no plan or intention to take a position in preparing a tax return that requires it to file a notice of inconsistent treatment under Code Section 6222(b), if it intends to do so in the future, it shall use its best efforts to provide at least ten (10) days advance notice of such intent to the Company and shall, if so requested by the Company, consult with the Tax Matters Partner concerning such position.

All matters concerning the allocations and other determinations provided for in this Article 10 and any accounting procedures not expressly provided for in this Agreement shall be determined by the Board of Managers in a manner consistent with the terms and intent of this Agreement.

#### ARTICLE 11. MISCELLANEOUS

##### 11.1 Amendments

Any provision of this Agreement may be amended if, and only if, such amendment is in writing and is duly executed by all Members; provided, however, that amendments may be made to this Agreement from time to time by the Board of Managers, without the consent of either Member, to take such actions as may be reasonably necessary (if any) to insure that the Company will be treated as a partnership for federal income tax purposes. Upon the making of any amendment to this Agreement in accordance with the previous sentence, the Board of Managers shall prepare and file such documents and certificates as may be required under the Act and under any other Applicable Law.

#### 11.2 No Waiver

Any provision of this Agreement may be waived if, and only if, such waiver is in writing and is duly executed by the party against whom the waiver is to be enforced. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial waiver or exercise thereof preclude the enforcement of any other right, power or privilege.

#### 11.3 Entire Agreement

This Agreement, together with the other documents, exhibits and schedules referred to herein and therein, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and supersede any and all prior oral and written, and all contemporaneous oral, agreements or understandings pertaining thereto. There are no agreements, understandings, restrictions, warranties or representations relating to such subject matter among the parties other than those set forth herein and in the other documents, exhibits and schedules referred to herein and therein.

#### 11.4 Further Assurances

Each of the parties hereto does hereby covenant and agree on behalf of itself, its successors and its assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish, and deliver such other instruments, documents and statements, and to take such other action as may be required by law or reasonably necessary or advisable to effectively carry out the purposes of this Agreement.

#### 11.5 Notices

Unless otherwise provided herein, all notices, requests, instructions or consents required or permitted under this Agreement shall be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile; (c) ten (10) Business Days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) three (3) Business Days after deposit with an internationally recognized commercial overnight carrier specifying next-day delivery, with written verification of receipt. All communications will be sent to the addresses listed on Exhibit A (or to such other address or facsimile number as may be designated by a party giving written notice to the other parties pursuant to this Section 11.5).

#### 11.6 Tax Matters

##### 11.6.1 Tax Matters Partner.

(a) The Company shall file an election pursuant to Code Section 6231(a)(1)(B)(ii) to have Code Section 6231(a)(1)(B)(i) not apply. For so long as Micron and/or any of its Affiliates has an aggregate Percentage Interest greater than fifty percent (50%), Micron

shall serve as the Company's "Tax Matters Partner" (as defined in Code Section 6231(a)(7)) and shall perform any similar or corresponding role under applicable state law. The Tax Matters Partner shall perform the duties imposed on a Tax Matters Partner under the Code and shall be entitled to expend Company funds for (or to be reimbursed for) reasonable third-party costs relating thereto. All legal and accounting fees relating to any audits of the Company shall be borne by the Company; provided, that the Members shall bear the costs of any audits of their separate tax returns. In the event the United States Internal Revenue Service or any other applicable Governmental Authority notifies the Tax Matters Partner of any proposed Proceeding relating to the Company's information or tax returns or to the amount of the liability of the Company for any Tax, the Tax Matters Partner shall promptly notify the other Members of such matter, shall provide relevant factual information (to the extent known) describing any asserted liability for Tax in reasonable detail and shall provide copies of any notice or other documents received from the Internal Revenue Service or other applicable Governmental Authority with respect to such matter. The Tax Matters Partner shall at all times keep the other Members informed as to the status of all such Proceedings.

(b) The Member designated as Tax Matters Partner is hereby authorized to make all elections available to the Company for federal, state, local, and foreign tax purposes, except that in no event shall the Company file an election to be treated as a corporation or as an association taxable as a corporation for United States federal income tax purposes or for purposes of income or corporate franchise tax purposes under the law of any State of the United States.

(c) The Tax Matters Partner shall prepare or cause to be prepared all appropriate income and information tax returns for the Company. All such returns shall be subject to review by the other Member(s) before filing and shall be delivered to the other Member(s) for review not fewer than ten (10) Business Days in advance of the due date thereof (taking into account any extensions actually obtained). All third-party costs and expenses reasonably incurred by the Tax Matters Partner in performing its duties described in this Section 11.6 or otherwise in accordance with the terms of this Agreement (including legal and accounting fees) shall be borne by the Company. Each Member shall provide to the Tax Matters Partner such information as the Tax Matters Partner deems necessary or appropriate in connection with its activities as Tax Matters Partner. The Tax Matters Partner shall cooperate with the Members by providing to each Member such information as the Member may reasonably request concerning the Company and its transactions in connection with the determination of such Member's liability for any Tax or any Proceeding relating thereto.

(d) The provisions of this Section 11.6 shall survive the termination or dissolution of the Company and shall remain binding on the Members for such period of time as is necessary to resolve any and all matters regarding the Tax treatment of the Company and Tax items attributable to the Company.

11.6.2 Standards. The Tax Matters Partner and its Affiliates shall not be liable, responsible, or accountable, in damages or otherwise, to the Company or to any other Member(s)

for doing any act or failing to do any act, with respect to the Tax Matters Partner's duties set forth in this Section 11.6 or otherwise performed, the effect of which may cause or result in loss or damage to the Company or any Member(s), unless the Tax Matters Partner or one of its Affiliates engages in gross negligence or willful misconduct.

#### 11.7 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements among Delaware residents entered into and wholly to be performed within the State of Delaware (without reference to any choice or conflicts of laws rules or principles that would require the application of the laws of any other jurisdiction).

#### 11.8 Construction; Interpretation

11.8.1 Certain Terms. The words "hereof," "herein," "hereto," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "including" is not limited and means "including without limitation."

11.8.2 Section References; Titles and Subtitles. Unless otherwise noted, all references to Sections and Exhibits herein are to Sections and Exhibits of this Agreement. The titles, captions and headings of this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

11.8.3 Reference to Persons, Agreements, Statutes. Unless otherwise expressly provided herein, (i) references to a Person include its successors and permitted assigns, (ii) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto or supplements thereof and (iii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

11.8.4 Presumptions. No party, nor its counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all provisions of this Agreement shall be construed in accordance with their fair meaning, and not strictly for or against any party.

#### 11.9 Rights and Remedies Cumulative

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.



#### 11.10 No Assignment; Binding Effect

Except as otherwise expressly provided herein, no party may assign, delegate or otherwise transfer any of its rights or obligations hereunder to any third party, whether by assignment, transfer, Change in Control or other means, without the prior written consent of each other party. Any attempted assignment in violation of the foregoing shall be null and void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the Members, their heirs, executors, administrators, successors and all other Persons hereafter holding, having or receiving an interest in the Company.

#### 11.11 Severability

If any provision in this Agreement will be found or be held to be invalid or unenforceable, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement which will remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by any party. In such event, the parties will use their respective best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly effects the parties' intent in entering into this Agreement.

#### 11.12 Counterparts

This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. Execution and delivery of this Agreement by exchange of facsimile copies bearing the facsimile signature of a party shall constitute a valid and binding execution and delivery of this Agreement by such party.

#### 11.13 Dispute Resolution

The parties hereby agree that claims, disputes or controversies of whatever nature, arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement (or any other agreement contemplated by or related to this Agreement), shall be first raised to the chief executive officer or another officer of each of the Members (appointed by such Member's chief executive officer) for discussion and attempt at resolution in good faith among such chief executive officers or any individuals appointed by such chief executive officers for such discussions and attempt at resolution, and if after thirty (30) days of such raising to the chief executive officers the parties are unable to come to a resolution, each of the parties shall be free to pursue any such claim, dispute or controversy in court.

#### 11.14 Third-Party Beneficiaries

None of the provisions of this Agreement shall be for the benefit of or be enforceable by any creditor of the Company or by any third-party creditor of any Member. This

Agreement is not intended to confer any rights or remedies hereunder upon, and shall not be enforceable by, any Person other than the parties hereto, their respective successors and permitted assigns and, solely with respect to the provision of Section 5.11, each Indemnatee and each other indemnified Person addressed therein.

#### 11.15 Specific Performance

The parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the parties agree that any damages available at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a party may have under this Agreement, at law or in equity.

#### 11.16 Consequential Damages

No party shall be liable to any other party under any legal theory for indirect, special, incidental, consequential or punitive damages, or any damages for loss of profits, revenue or business, even if such party has been advised of the possibility of such damages (it being understood that consequential damages arising from the breach of the confidentiality restrictions set forth in the Non-Disclosure Agreement shall not be considered to fall within any such category of damages).

(Signature Page Follows)

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

MEMBERS

MICRON TECHNOLOGY, INC.

By: -----  
Name: -----  
Title: -----

PHOTRONICS, INC.

By: -----  
Name: -----  
Title: -----

EXHIBIT A

Name and Address of Members	Gross Asset Value of Contributed Property	Capital Account Balance	Percentage Interest	Number of Units
Micron Technology, Inc. 8000 S. Federal Way Boise, Idaho 83716-9632 Attn: Chief Operating Officer Fax: (208) 368-2548			50.01%	50,010
With a required copy to: General Counsel Fax: (208) 368-4540				
Photronics, Inc. 15 Secor Road Brookfield, CT 06804 Attention: Edwin L. Lewis, Senior Vice President and General Counsel Fax: (203) 775-5601			49.99%	49,990
And  15 Secor Road Brookfield, CT 06804 Attention: Sean Smith, Senior Vice President and Chief Financial Officer Fax: (203) 775-5601				

EXHIBIT B

[\*\*\*\*]

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

EXHIBIT C

Michael J. Luttati, Sean T. Smith and Christopher J. Progler.

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EXHIBIT D

INSURANCE POLICIES AT CLOSING

1. Property Insurance: Coverage for "all risk" property insurance, insuring against physical damage on a replacement basis for assets, and insuring against resultant business interruption from physical damage on an actual-loss sustained basis. The property insurance limit must equal full replacement value of all physical property and one year business interruption insurance.
2. Transit Insurance: Coverage for repair or replacement of capital equipment in transit up to the invoiced amount for the equipment.
3. Liability Insurance:
  - o Commercial general liability insurance, including but not limited to contractual liability, personal injury, completed operations, product liability and host liquor liability, coverage for bodily injury and property damage liability, with a limit of not less than \$50 million for each loss occurrence and not less than \$50 million in annual aggregate coverage.
  - o Automobile liability coverage for bodily injury and property damage liability with a limit of not less than \$10 million for each loss occurrence and not less than \$10 million in annual aggregate coverage, for owned, hired, and non-owned automobiles.
4. Workers Compensation & Employers Liability: Statutory workers compensation coverage for employees, if any, of the Company and its subsidiaries, including employers' liability coverage with a limit of not less than \$10 million for each loss occurrence and \$10 million in annual aggregate coverage.

CONTRIBUTION AND UNITS PURCHASE AGREEMENT  
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THIS CONTRIBUTION AND UNITS PURCHASE AGREEMENT (this "Agreement") is made and entered into as of May 5, 2006, by and between Micron Technology, Inc., a Delaware corporation ("Micron"), Photronics, Inc., a Connecticut corporation ("Photronics"), and MP Mask Technology Center, LLC, a Delaware limited liability company (the "Company").

WHEREAS, Micron formed the Company to serve as the legal entity for a joint venture (the "Joint Venture") between Micron and Photronics for the development, fabrication and sale of advanced photomasks (the "Photomask Business").

WHEREAS, in furtherance of establishing the Joint Venture, and in connection with the execution of the Limited Liability Company Operating Agreement of MP Mask Technology, LLC (the "LLC Operating Agreement") to be dated as of the Closing Date (as defined below), by and between Micron and Photronics, Micron desires to contribute hereunder as of the Closing Date (the "Contribution") to the Company the assets set forth on Schedule A hereto, which Schedule may be updated upon the reasonable agreement of Micron and Photronics, consistent with Section 6(h) below (the "Transferred Assets"), subject to the terms and conditions contained in this Agreement, in exchange for 100% of the membership interests (the "Membership Interests") of the Company.

WHEREAS, immediately following the Contribution, Micron desires to sell 49.99% of all of the Membership Interests, represented by 49,990 units (the "Transferred Units"), of the Company to Photronics, and Photronics desires to purchase such Membership Interests from Micron, pursuant to the terms and conditions of this Agreement.

WHEREAS, at the Closing, Micron and Photronics shall enter into the LLC Operating Agreement to set forth the respective rights and obligations of Micron and Photronics with respect to the Company, and, along with the Company, certain other Transaction Documents, as listed on Schedule B hereto.

NOW, THEREFORE, in consideration of the promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Contribution.

(a) General. On the terms and subject to the conditions contained in this Agreement, Micron shall convey, assign, transfer and deliver to the Company, and the Company shall acquire on the Closing Date (as defined below), all of Micron's right, title and interest in and to its ownership interests in the Transferred Assets, subject to Permitted Exceptions respecting only the real property located at 3851 E. Columbia Road, Boise, Idaho (the "JV Plant"), and no other Micron assets whatsoever, in exchange for 100,000 membership units of the Company (the "Units"). "Permitted Exceptions" shall mean: (a) the lien of all ad valorem real estate Taxes (as defined below) due and payable in the calendar year 2006 and subsequent

calendar years; (b) all matters of record relating to the JV Plant in the official records of the county in which such real property is located; (c) local, state and federal laws, ordinances or governmental regulations and the like, including but not limited to building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the JV Plant; and (d) any matters that would be shown on an accurate survey of current date of the JV Plant.

(b) Contribution Closing. The closing of the contribution transactions provided for in this Agreement (the "Contribution Closing") shall take place at the offices of Micron at 8000 South Federal Way, Boise, Idaho at the opening of business on May 5, 2006 (the "Closing Date"). At the Contribution Closing, Micron shall deliver to the Company deeds, endorsements, assignments and good and sufficient instruments of conveyance, transfer and assignment as are necessary, appropriate and effective to vest in the Company all of the right, title and interest of Micron in and to the Transferred Assets and, simultaneously with such deliveries, Micron shall take such steps as are necessary to put the Company in actual possession and operating control of the Transferred Assets. On the Closing Date, the Company shall issue to Micron the Units, which shall be fully paid and nonassessable.



(c) Assumption of Liabilities. Effective as of the Contribution Closing, the Company will assume and perform and in due course pay and discharge the following liabilities: (i) any liabilities arising out of or based upon events or circumstances occurring after the Closing in connection with or resulting from the operation of the Company's business, including product warranty claims made with respect to the sale of products by the Company after the Closing, whether or not such products were manufactured prior to the Closing; (ii) any liabilities set forth on Schedule C; (iii) any other liabilities explicitly assumed under the provisions of the Transaction Documents; and (iv) any liabilities relating to the Transferred Assets that were not known by Micron as of the Contribution Closing (collectively, the "Assumed Liabilities"). At the Contribution Closing, the Company shall deliver to Micron appropriate assumption agreements as are necessary, appropriate and effective to assume the Assumed Liabilities. Following the Contribution Closing, Micron shall use reasonable efforts to assign and transfer all its rights, title and interest in, to and under any Assumed Contracts. To the extent any Assumed Contract (as defined below) is not capable of being transferred, assigned or conveyed without the consent or waiver of a party thereto (other than Micron or an affiliate of Micron) or any other third party (including governmental authority), or if such transfer, assignment or conveyance would constitute a breach thereof or violation of Applicable Law, this Agreement shall not constitute a transfer, assignment or conveyance thereof, and Micron shall hold any such Assumed Contract for the benefit of the Company.

(d) Prorations. On the Closing Date, or as promptly as practicable following the Closing Date, but in no event later than sixty (60) calendar days thereafter, the water, gas electricity and other utilities, local business or other transferable license or permit fees, and other similar periodic charges payable with respect to the Transferred Assets shall be prorated between Micron and the Company, with Micron bearing such costs and expenses attributable to the period through and including the day prior to the Closing Date, and the Company bearing such costs and expenses attributable to the period after the day prior to the Closing Date.

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

(e) Taxes. Except as otherwise provided in this Agreement, (a) all Taxes (other than transfer Taxes) in respect of the Transferred Assets for the period or portions of periods ending at or prior to the day prior to the Closing Date shall be borne solely by Micron ("Micron Pre-Closing Taxes"). For purposes of the foregoing, any Taxes that are imposed on a periodic basis and are payable for a Tax period that includes (but does not end on) the day prior to the Closing Date (a "Straddle Period"), the portion of such Tax that relates to the portion of such Tax period ending on the day prior to the Closing Date shall (A) in the case of any Taxes other than Taxes based upon or related to income or receipts, be deemed to be the amount of such Tax for the entire Tax period multiplied by a fraction, the numerator of which is the number of days in the Tax period ending on the day prior to the Closing Date and the denominator of which is the number of days in the entire Tax period, and (B) in the case of any Tax based upon or related to income or receipts, be deemed equal to the amount which would be payable if the relevant Tax period ended on the day prior to the Closing Date. For purposes of this Section, all relevant periods in respect of personal property, real property and similar Taxes imposed by the State of Idaho shall be treated as beginning after the day prior to the Closing Date, and such Taxes in respect of the Transferred Assets shall be paid by the Company. Micron shall pay to the Company, within fifteen (15) days prior to the date on which Taxes are due with respect to Straddle Periods, that amount equal to the applicable portion of such Taxes which relates to the portion of such Taxable period ending on the day prior to the Closing Date. Except as otherwise provided in this Agreement, all Taxes in respect of the Transferred Assets for the period or portions of periods beginning after the day prior to the Contribution Closing shall be borne by the Company or, to the extent that the Company is taxed as a flow-through entity, with respect to income or franchise Taxes, by the Members. "Tax" means all taxes, levies, imposts and fees imposed by any Governmental Authority (domestic or foreign) of any nature, including but not limited to federal, state, local or foreign net income tax, alternative or add-on minimum tax, profits or excess profits tax, franchise tax, gross income, adjusted gross income or gross receipts tax, employment related tax (including employee withholding or employer payroll tax, FICA or FUTA), real or personal property tax or ad valorem tax, sales or use tax, excise tax, stamp tax or duty, any withholding or back up withholding tax, value added tax, severance tax, prohibited transaction tax, premiums tax, occupation tax, together with any interest or any penalty, addition to tax or additional amount imposed by any Governmental Authority (domestic or foreign) responsible for the imposition of any such tax.

## 2. Purchase and Sale of Membership Interests.

(a) General. At the LLC Closing (as defined below) and upon the terms and conditions set forth in this Agreement, Micron shall sell, transfer and assign to Photronics, and Photronics shall purchase and acquire from Micron, the Transferred Units, free and clear of all security interests, claims, liens, pledges, options, encumbrances, charges, agreements, voting trusts, proxies and other arrangements or restrictions whatsoever, except as may be set forth in this Agreement and the LLC Operating Agreement. Capitalized terms used, but not defined, in this Agreement, shall have the meanings set forth in the LLC Operating Agreement.

(b) Purchase Price. The total purchase price to be paid by Photronics for the Units will be \$63,000,000 (the "Purchase Price").

(c) Closing; Subsequent Payments. Subject to the terms and conditions contained in this Agreement, the purchase and sale of the Units hereunder (the "LLC Closing" and together with the Contribution Closing, the "Closing") shall take place immediately following the Contribution Closing at the offices of Micron at the opening of business on May 5, 2006 (the "Closing Date"), or at such other place or on such other date as is mutually agreeable to Micron and Photronics. [\*\*\*\*]. In addition, Photronics shall make two additional payments to Micron in payment for the balance of the Purchase Price by delivery to Micron, by wire transfer of immediately available funds to a bank account designated in writing by Micron, of an amount equal to \$7,500,000, on each of the first and second anniversaries of the Closing Date.

### 3. Closing Conditions.

(a) The obligation of Micron to sell, transfer and assign the Units to Photronics hereunder is subject to the satisfaction of the following conditions as of the Closing:

(i) the representations and warranties contained in Section 4 hereof shall be true and correct in all material respects at and as of the date hereof and at and as of the Closing Date as though then made, except to the extent of changes caused by the transactions expressly contemplated herein;

(ii) Micron shall have received the portion of the Purchase Price payable to Micron at the Closing pursuant to Section 2 above;

(iii) The agreements and covenants of Photronics contained in this Agreement that are required to be performed prior to or on the Closing Date shall have been performed or satisfied by Photronics in all material respects;

(iv) Consummation of the transactions contemplated hereby and by the Transaction Documents shall not have been restrained, enjoined or otherwise prohibited by Applicable Law or order of judgment or any Governmental Authority (as defined in the LLC Operating Agreement); and

(v) Micron and Photronics shall have entered into the LLC Operating Agreement and the other Transaction Documents, and such agreements shall be in full force and effect.

(b) The obligation of Photronics to purchase and acquire the Units from Micron is subject to the satisfaction of the following conditions as of the Closing:

(i) the representations and warranties contained in Section 4 hereof shall be true and correct in all material respects at and as of the date hereof and at and as of the Closing Date as though then made, except to the extent of changes caused by the transactions expressly contemplated herein;

(ii) The agreements and covenants of Micron contained in this Agreement that are required to be performed prior to or on the Closing Date shall have been performed or satisfied by Micron in all material respects;

(iii) The Contribution shall have occurred;

(iv) Consummation of the transactions contemplated hereby and by the Transaction Documents shall not have been restrained, enjoined or otherwise prohibited by Applicable Law or order of judgment or any Governmental Authority; and

(v) Micron and Photronics shall have entered into the LLC Operating Agreement and the other Transaction Documents, and such agreements shall be in full force and effect.

4. Representations and Warranties of Micron. Micron hereby represents and warrants to Photronics as follows:

(a) Organization. Each of Micron and the Company is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation. Micron has all corporate power and authority required to conduct its business as currently conducted and to own and lease its properties and operate its business as currently owned, leased and operated. The Company has all limited liability company power and authority required to conduct its business as currently conducted and to own and lease its properties and operate its business as currently owned, leased and operated. Each of Micron and the Company is duly qualified to do business and is in good standing (to the extent such concept exists in the relevant jurisdiction) as a foreign corporation or limited liability company, as applicable, in each jurisdiction where the character of the property owned or leased or the nature of its activities makes such qualification necessary, except for those jurisdictions where the failure to be so qualified or in good standing is not reasonably likely to result in a Material Adverse Effect on Micron or the Joint Venture, as applicable. A "Material Adverse Effect" on a Person (as defined in the LLC Operating Agreement) or business shall mean any facts or circumstances that, individually or in the aggregate, would, or might reasonably be expected to, result in a material adverse effect on the business, financial condition or results of operations of such Person or business.

(b) Ownership. All of the Membership Interests of the Company are owned by Micron, and Micron has good and marketable title to such Membership Interests, which consists of 100,000 units, free and clear of all security interests, claims, liens, pledges, options, encumbrances, charges, agreements, voting trusts, proxies and other arrangements or restrictions whatsoever.

(c) Authorization. Micron has all requisite corporate power and corporate authority to execute and deliver this Agreement, to perform all of its obligations and undertakings hereunder and to consummate the transactions contemplated hereby. The execution and performance of this Agreement and the sale of the Units by Micron to Photronics have been duly authorized by all necessary action on the part of Micron, and this Agreement has been duly

authorized, executed and delivered by Micron and constitutes a valid and legally binding obligation of Micron, enforceable in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles.

(d) Conflicts. The execution, delivery and performance of this Agreement by Micron or the Company does not conflict with, violate or result in the breach of, or create any lien or encumbrance on the Transferred Assets or the Membership Interests of the Company pursuant to, any charter, agreement, instrument, order, judgment, decree, law or governmental regulation to which Micron is a party or is subject or by which the Transferred Assets or the Membership Interests of the Company are bound. The execution, delivery and performance of this Agreement does not and will not require any governmental or other third party consents or filings on the part of Micron or the Company.

(e) Transferred Assets. [\*\*\*\*]. The Company has, except for Permitted Exceptions, (i) good and marketable title to, and possession of, all of the owned Transferred Assets that are real property and (ii) good and valid title to all of the owned Transferred Assets that are not real property. All of the Transferred Assets are in good operating condition and repair, ordinary wear and tear and immaterial defects excepted. The Company has no assets other than the Transferred Assets and the rights under the Technology License Agreement (as defined in the LLC Operating Agreement).

(f) Litigation. To Micron's Knowledge, there is no material Proceeding pending or threatened against, relating to or affecting the Transferred Assets or the transactions contemplated by this Agreement. "Micron's Knowledge" and the related term "Known by Micron" shall mean the actual knowledge of the executive officers of Micron, after due inquiry of the operating officers of Micron and the Company. "Proceeding" shall mean any action, suit, hearing, arbitration, proceeding (public or private), investigation, examination, audit or claim.

(g) Environmental Matters. Except as would not reasonably be expected to have a Material Adverse Effect on the Company, to Micron's Knowledge: (i) Micron's operation of the Transferred Assets has complied with all Environmental Laws; and (ii) no real property constituting a Transferred Asset contains any Hazardous Substance which could be expected to require investigation or remediation under any Environmental Law. "Environmental Law" shall mean any law, regulation, order, decree, common law or agency requirement relating to the protection of the environment or human health and safety. "Hazardous Substance" shall mean any substance that is listed, classified or regulated in any concentration under any Environmental Law including petroleum products and polychlorinated biphenyls.

(h) Contracts. All material contracts or other material agreements assigned to the Company by Micron in connection with the transactions contemplated by this Agreement are set forth on Exhibit C hereto (the "Assumed Contracts") and are in full force and effect and constitute the valid and legally binding obligations of the Company, enforceable in accordance

with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles. Micron is not in material default under, and to Micron's Knowledge, no other party is in material default under, any of the Assumed Contracts.

(i) Sufficiency of Assets. To Micron's Knowledge, upon the execution of, and consummation of the transactions contemplated by, this Agreement, the Contribution Agreement and the other Transaction Documents, (i) the tangible assets and properties of the Company as of the Closing Date will include all of the material tangible assets and properties necessary for the conduct of the Company's Photomask Business as conducted by Micron immediately prior to the Closing (not including assets used by Micron in connection with its performance of services under the Information Technology, Operational and General Administrative Services Agreement between Micron and the Company (the "Services Agreement")) and (ii) the services to be performed by Micron pursuant to the Services Agreement encompass services sufficient for the continued conduct of Micron's Photomask Business as conducted by Micron immediately prior to the Closing. All of the material machinery and equipment located at the JV Plant as of the date hereof constitute Transferred Assets (not including (i) assets used by Micron in connection with its performance of services under the Services Agreement and (ii) assets used by non-Micron field service personnel in connection with their performance of services for the Company).

(j) Undisclosed Liabilities. To Micron's Knowledge, Micron's Photomask Business is not subject to any material liability, whether absolute, contingent, accrued or otherwise, which is not shown or which is in excess of amounts shown or reserved for in the unaudited balance sheet of Micron's Photomask Business dated as of the date hereof and provided to Photronics on the date hereof, which balance sheet has been prepared from, and is consistent with, the books and records of Micron.

(k) Permits. To Micron's Knowledge, it operates Micron's Photomask Business and the Transferred Assets with all required material Governmental Authority approvals, permits and licenses and is in compliance with all material terms thereof.

(l) No Material Adverse Effect. Since March 2, 2006, there has not been any Material Adverse Effect on Micron's Photomask Business.

(m) Compliance with Laws. Micron is in compliance in all material respects with all Applicable Laws relating to or applicable to the conduct of Micron's Photomask Business and the ownership and use of the Transferred Assets.

(n) Title Insurance. Micron has provided Photronics with true and complete copies of the Micron Title Insurance Policies. To Micron's knowledge, each of the Micron Title Insurance Policies is, and as of the Closing will be, in full force and effect according to its terms

(o) Brokers and Finders. Micron has not engaged any broker or finder in connection with this transaction.

5. Representations and Warranties of Photronics. Photronics hereby acknowledges, represents and warrants to Micron as follows:

(a) Organization. Photronics is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation. Photronics has all corporate power and authority required to conduct its business as currently conducted and to own and lease its properties and operate its business as currently owned, leased and operated. Photronics is duly qualified to do business and is in good standing (to the extent such concept exists in the relevant jurisdiction) as a foreign corporation or limited liability company, as applicable, in each jurisdiction where the character of the property owned or leased or the nature of its activities makes such qualification necessary, except for those jurisdictions where the failure to be so qualified or in good standing is not reasonably likely to result in a Material Adverse Effect on Photronics.

(b) Authorization. Photronics has all requisite corporate power and corporate authority to execute and deliver this Agreement, to perform all of its obligations and undertakings hereunder and to consummate the transactions contemplated hereby. The execution and performance of this Agreement and the purchase of the Units by Photronics from Micron have been duly authorized by all necessary action on the part of Photronics, and this Agreement has been duly authorized, executed and delivered by Photronics and constitutes a valid and legally binding obligation of Photronics, enforceable in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles.

(c) Conflicts. The execution, delivery and performance of this Agreement by Photronics does not conflict with, violate or result in the breach of any charter, agreement, instrument, order, judgment, decree, law or governmental regulation to which Photronics is a party or is subject. The execution, delivery and performance of this Agreement does not and will not require any governmental or other third party consents or filings either on the part of Photronics.

(d) Investment Representations.

(i) Photronics is acquiring the Units for investment purposes and is not acquiring the Units with a view to the public sale or distribution of any part thereof, and Photronics has no present intention of selling, granting participation in, or otherwise distributing the Units in violation of any federal or state securities laws. Photronics recognizes that it must bear the economic risk of the investment represented by its purchase of the Units for an indefinite period according to the terms of the LLC Operating Agreement. Photronics understands that the Units have not been registered under the Securities Act of 1933 on the basis that the sale provided for in this Agreement is exempt under the Act and that the reliance of Micron on such exemptions is predicated upon such Photronics' representations set forth herein.

(ii) Photronics acknowledges and agrees that any certificates representing Units held by Photronics, and the LLC Operating Agreement, will be affixed with the following legend:

"MEMBERSHIP INTERESTS IN MP MASK TECHNOLOGY CENTER, LLC, A DELAWARE LIMITED LIABILITY COMPANY, HAVE NOT BEEN REGISTERED WITH OR QUALIFIED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE. THE INTERESTS ARE BEING SOLD IN RELIANCE UPON EXEMPTIONS FROM SUCH REGISTRATION OR QUALIFICATION REQUIREMENTS. THE INTERESTS CANNOT BE SOLD, TRANSFERRED, ASSIGNED OR OTHERWISE DISPOSED OF EXCEPT IN COMPLIANCE WITH THE RESTRICTIONS ON TRANSFERABILITY CONTAINED IN THE LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF MP MASK TECHNOLOGY CENTER, LLC AND APPLICABLE FEDERAL AND STATE SECURITIES LAWS."

(iii) Photronics hereby acknowledges that Micron has provided to Photronics no information regarding the Company, or its business, prospects or value, and is making no representations other than those in Section 4 hereof. Photronics further acknowledges that it has conducted an independent investigation and has been given access by the Company or parties unrelated to Micron to all information regarding the Company that it has requested, but such investigation shall not relieve Micron on liability for breaches of representations and warranties made by Micron in Section 4. Photronics is capable of evaluating and has evaluated the merits and risks of its acquisition of the Units.

(iv) Photronics hereby acknowledges that Micron is relying on the representations contained in this Agreement in engaging in the sale of the Membership Interests of the Company and would not engage in the sale of the Membership Interests of the Company in the absence of the representations contained in this Agreement.

(e) Brokers and Finders. Photronics has not engaged any broker or finder in connection with this transaction.

#### 6. Covenants.

(a) Operations Prior to the Closing Date. Prior to the Closing Date, Micron shall operate Micron's Photomask Business and the Transferred Assets in the ordinary course and substantially as presently operated.

(b) No Sale of Assets. Except for the sale of inventory in the ordinary course of business and the disposition of broken or obsolete assets, Micron will not, directly or indirectly, (a) solicit any inquiries or proposals or enter into or continue any discussions, negotiations or agreements relating to the direct or indirect transfer of the Transferred Assets to



any Person other than the Company or (b) provide any assistance or any information to or otherwise cooperate with any Person in connection with any such inquiry proposal or transaction.

(c) Diligence in Pursuit of Closing. Each of the parties hereto shall use all commercially reasonable efforts to fulfill their respective obligations hereunder and under the other Transaction Documents, and shall reasonably cooperate with the other parties in regard to the same in order to effect the Closing.

(d) Maintenance of Insurance. Prior to the Closing, Micron shall not take or fail to take any action that would adversely affect the applicability and the extent of coverage of any insurance in effect on the date hereof, in any material respect, that covers all or any part of the Transferred Assets, as and to the extent such insurance applies to and covers insured risks for periods prior to the Closing Date.

(e) Confidentiality. The disclosure and exchange of information between Micron and Photronics is governed solely by the terms of the Micron Technology, Inc. Mutual Nondisclosure Agreement dated as of March 29, 2005, as amended, and by the Nondisclosure Agreement among Micron, Photronics and the Company included as part of the Transaction Documents (the "Confidentiality Agreements").

(f) Press Releases. The parties agree that, following the signing of this Agreement, they shall issue a joint press release, the text of which shall have been pre-approved by Micron and Photronics. Except as required by law or regulation, prior to the issuance of such press release, none of the parties hereto shall make any public disclosure, announcement or statement with respect to this Agreement, the Transaction Documents or the Joint Venture or any of the transactions contemplated by this Agreement or the Transaction Documents.

(g) Title. Micron covenants that following the Closing Date, Micron, without cost to Micron but for the benefit of the Company, will diligently and reasonably present and prosecute to the fullest extent of available coverage claims under the policies of title insurance, and riders and endorsements thereto, issued effective upon Micron's acquisition of fee simple title to the real property constituting Transferred Assets (the "Micron Title Insurance Policy") with respect to any claim, action, loss or damage affecting such property that the Company may assert against Micron. Micron agrees to pay over to the Company any proceeds paid to Micron in respect of Micron's claims asserted under the Micron Title Insurance Policy to the extent related to the real property constituting Transferred Assets.

(h) Opening Balance Sheet. [\*\*\*\*]. If the net asset value of the Transferred Assets on the Opening Balance Sheet is less than the NAV Amount, then Micron shall promptly wire an amount of cash equal to such deficiency to the Company. If the net asset value on the Opening Balance Sheet is greater than the NAV Amount, then the Company shall promptly wire an amount equal to such excess to Micron.

7. Survival of Representations and Warranties. All representations and warranties contained herein or made in writing by any party in connection herewith shall survive

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

the execution and delivery of this Agreement and the Closing hereunder for a period of one (1) year following the Closing Date, except for the representations and warranties set forth in Sections 4(b) and 4(c) and the second sentence of Section 4(e), which shall survive the execution and delivery of this Agreement and the Closing for a period of ten years following the Closing Date.

8. Indemnification.

(a) Agreement to Indemnify.

(i) Micron agrees to indemnify and hold harmless Photronics and each of its representatives and affiliates (including the Company) (each a "Photronics Indemnified Party") against any and all liabilities, claims, demands or losses, including reasonable attorneys' fees incurred by any Photronics Indemnified Party arising out of, or resulting from, (u) any breach of any representation or warranty made by Micron in this Agreement or any other certificate delivered by Micron pursuant to this Agreement, (v) any breach of any covenant made by Micron in this Agreement or any other certificate delivered by Micron pursuant to this Agreement, (w) any known liabilities of Micron's Photomask Business not assumed by the Company pursuant to the Transaction Documents, (x) any Pre-Closing Environmental Matter or (y) any products distributed by Micron prior the Closing. "Pre-Closing Environmental Matter" shall mean (a) the production, use, generation, emission, storage, treatment, transportation, recycling, disposal, discharge, release or other handling or disposition at any time on or prior to the Closing Date of any Hazardous Substances on, from or under any real property included in the Transferred Assets by Micron or any affiliate of Micron or (b) the failure prior to the Closing Date by Micron or any affiliate of Micron to operate the business on any real property included in the Transferred Assets in compliance with any Environmental Law.

(ii) Photronics agrees to indemnify and hold harmless Micron and each of its representatives and affiliates (including the Company) (each a "Micron Indemnified Party") against any and all liabilities, claims, demands or losses, including reasonably attorneys' fees, incurred by any Micron Indemnified Party arising out of, or resulting from, (u) any breach of any representation or warranty made by Photronics in this Agreement or any other certificate delivered by Photronics pursuant to this Agreement or (v) any breach of any covenant made by Photronics in this Agreement or any other certificate delivered by Photronics pursuant to this Agreement.

(b) Limitations on Indemnification.

(i) [\*\*\*\*].

(ii) [\*\*\*\*].

(iii) After the Closing, with respect to any matter as to which indemnification is provided pursuant to Section 8 of this Agreement, such

indemnification shall be the sole remedy available to a Photronics Indemnified Party or Micron Indemnified Party, as the case may be; provided, however, that this Section 8(b)(iii) shall not limit any party's rights to bring a claim, action or suit for fraud or bad faith.

(c) Indemnification Procedures. In the event a Photronics Indemnified Party or a Micron Indemnified Party intends to make a claim for indemnification hereunder on behalf of himself or any Photronics Indemnified Party or Micron Indemnified Party, respectively (an "Indemnitee"), such party shall notify whichever of Micron or Photronics against whom indemnity is being sought (the "Indemnitor") of the claim in writing promptly (but in no event later than thirty (30) days) after receiving written notice of any action, lawsuit, proceeding, investigation or other claim against him (if by a third party) or discovering the liability, obligation or facts giving rise to such claim for indemnification, describing the claim, the amount thereof (if known and quantifiable), and the basis thereof, provided that the failure to so notify the Indemnitor shall not relieve the Indemnitor of his obligations hereunder except to the extent such failure shall have actually prejudiced the Indemnitor. The Indemnitor shall be entitled to assume and control (with counsel of its choice) the defense of the action, lawsuit, proceeding, investigation or other claim giving rise to Indemnitee's claim for indemnification at the option and expense of the Indemnitor by sending written notice of its election to do so within fifteen (15) days after receiving written notice of such claim from the Indemnitee as aforesaid; provided, however, that:

(i) The Indemnitee shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose, the fees and expenses of such separate counsel which shall be borne by the Indemnitee;

(ii) If the Indemnitor elects to assume the defense of any such claim, the Indemnitor shall be entitled to compromise or settle such claim so long as either (x) such settlement provides an unconditional release of all Indemnitees with respect to such claim and requires the payment of monetary damages only or (y) the Indemnitor obtains the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld or delayed); and

(iii) If the Indemnitor shall not have assumed the defense of such claim within the 15-day period set forth above, the Indemnitee may assume the defense of such action, lawsuit, proceeding, investigation or such other claim with counsel selected by it (which counsel shall be reasonably acceptable to the Indemnitor) at the expense of the Indemnitor, provided that the Indemnitee shall under no circumstances settle or compromise such claim without the prior written consent of the Indemnitor (which consent shall not be unreasonably withheld or delayed).

9. Termination. This Agreement may be terminated at any time prior to the Closing (a) by mutual written consent of the parties hereto or (b) if the Closing does not occur prior to July 1, 2006, provided that no party shall be entitled to terminate this Agreement pursuant to this clause (b) if such party is in breach of any provision hereof or if the Closing has

not occurred despite the satisfaction of the conditions to such party's obligation to close. In the event of the termination of this Agreement pursuant to this Section 9, this Agreement shall become void and of no further force and effect, there shall be no liability under this Agreement and all rights and obligations of each party hereto shall cease, provided that nothing herein shall relieve any party from liability for, or be deemed to waive any rights available to a party by reason of, any breach by the other party or parties of its or their representations, warranties, covenants or agreements set forth in this Agreement. If the Closing does occur, this Agreement may not be terminated thereafter by either party without the prior written consent of the other.

10. Further Assurances. After the Closing, as and when requested by Photronics, Micron shall execute and deliver all such instruments of conveyance and transfer and shall take such further actions as Photronics may deem reasonably necessary to transfer the Units to Photronics and to carry out fully the provisions and purposes of this Agreement. After the Closing, as and when requested by Micron, Photronics shall take such further actions as Micron may deem reasonably necessary to carry out fully the provisions and purposes of this Agreement.

#### 11. Miscellaneous.

(a) Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Micron and Photronics and their respective successors and assigns. This Agreement may not be assigned by either party hereto without the prior written consent of the other party to this Agreement, which consent shall not be unreasonably withheld.

(b) Amendment. This Agreement may be amended only through a writing signed by all parties hereto.

(c) Entire Agreement and Modification. This Agreement and all agreements between Micron and Photronics entered into concurrently herewith, including the LLC Operating Agreement and the other Transaction Documents, together with the Confidentiality Agreements, constitute and contain the entire agreement of the parties and supersede and preempt any and all prior negotiations, correspondence, understandings, agreements and representations, written or oral, which may have related to the subject matter hereof.

(d) Choice of Law. The construction, validity, interpretation and enforcement of this Agreement shall be governed by the internal law, and not the law of conflicts, of the State of Delaware. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH OF THE PARTIES HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT THE PARTIES HERETO

HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 8(d).

(e) Enforcement. If any portion of this Agreement shall be determined to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be valid and enforceable to the maximum extent possible.

(f) Headings. The headings appearing in this Agreement have been inserted for identification and reference purposes and shall not by themselves determine the construction or interpretation of this Agreement.

(g) Notices. Unless otherwise provided herein, all notices, requests, instructions or consents required or permitted under this Agreement shall be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile; (c) ten (10) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) three (3) business days after deposit with an internationally recognized commercial overnight carrier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses listed on Exhibit A to the LLC Operating Agreement (or to such other address or facsimile number as may be designated by a party giving written notice to the other parties pursuant to Section 11.5 of the LLC Operating Agreement).

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

(i) Expenses. Except as otherwise provided herein, each party shall pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery, performance and consummation of this Agreement, except that the Company shall pay any transfer Taxes, recording and filing fees, and other charges with respect to the transfer of the Transferred Assets at the Contribution Closing.

(signature page follows)

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

MICRON TECHNOLOGY, INC.

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

PHOTRONICS, INC.

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

MP MASK TECHNOLOGY CENTER, LLC

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

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Schedule A  
Transferred Assets

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Schedule B

Transaction Documents

Contribution and Units Purchase Agreement among Micron, Photronics and the Company

Limited Liability Company Operating Agreement between Micron and Photronics

Company to Micron Direct Supply Agreement between Micron and the Company

Company to Photronics Supply Agreement between Photronics and the Company

Photronics to Micron Supply Agreement between Micron and Photronics

Technology License Agreement among Micron, Photronics and the Company

Information Technology, Operational and General Administrative Services Agreement between Micron and the Company

Operational and General Administrative Services Agreement between Photronics and the Company

Nondisclosure Agreement among Micron, Photronics and the Company

Non-solicitation Agreement among Micron, Photronics and the Company

Assignment and Assumption Agreement between Micron and the Company

Bill of Sale between Micron and the Company

Warranty Deed between Micron and the Company

Build to Suit Lease between Micron and Photronics

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



Schedule C

Assumed Contracts and Assumed Liabilities

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- 3-

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

## TECHNOLOGY LICENSE AGREEMENT

This TECHNOLOGY LICENSE AGREEMENT (the "Agreement"), made this 5th day of May, 2006 (the "Effective Date"), is by and among MICRON TECHNOLOGY, INC., a Delaware corporation ("Micron"), PHOTRONICS, INC., a Connecticut corporation ("Photronics") and MP MASK TECHNOLOGY CENTER, LLC, a Delaware limited liability company (the "Company").

## RECITALS

WHEREAS, Micron and Photronics have formed the Company to develop and fabricate advanced Reticles primarily dedicated to supporting Micron's prototype and production Reticle requirements as directed by Micron and pursuant to the Limited Liability Company Operating Agreement of even date herewith (the "Operating Agreement") by and between Micron and Photronics;

WHEREAS, Micron and Photronics own certain technology assets that each will license pursuant to the terms and conditions of this Agreement (i) to the Company so that the Company may fulfill its Objectives (defined below) and (ii) to each other for the purposes set forth herein; and

WHEREAS, Micron, Photronics and the Company have entered into separate supply agreements under which Micron and Photronics will be able to obtain the Reticles developed and fabricated using the technology licensed hereunder.

NOW, THEREFORE, in consideration of the promises contained, and of the obligations herein made and undertaken, the parties hereto do hereby covenant and agree follows:

## 1. DEFINITIONS

For purposes of this Agreement, the definitions set forth in this Section 1 shall apply to the respective capitalized terms. All capitalized terms not defined in this Agreement shall have the meaning set forth in the Operating Agreement.

1.1 "Approved Technology" shall mean (i) all Technology and Software initially provided by Micron or Photronics to the Company hereunder in accordance with Section 3, and (ii) all other Technology and Software that has been approved by the Technology Steering Committee for use in the Company.

1.2 "Company Improvements" shall mean (i) all Improvements made by or for the Company to any of the Micron Technology, Micron Software or the Photronics Technology; (ii) all documentation, works of authorship, know-how, data and data bases, formulae, algorithms, processes, inventions and discoveries (whether or not patentable), Software, ideas, concepts, techniques, methods, content, technical information; engineering, production and other designs; drawings, schematics, tooling requirements, and other information, technology and materials, tangible or intangible, conceived, created, developed, first fixed in a tangible medium or first

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reduced to practice by, for or at the Company; and (iii) all Intellectual Property Rights in each of the foregoing.

1.3 "Competing Product" means [\*\*\*\*].

1.4 "Copy Critical" shall refer to [\*\*\*\*]

1.5 "Copy Exact" shall refer [\*\*\*\*].

1.6 "Designated Facility" means [\*\*\*\*]

1.7 "Improvements" shall mean all derivative works of, improvements upon and modifications to Technology.

1.8 "Intellectual Property Right" means any patents, patent applications, including with respect to patents any patent rights granted upon any reissue, division, continuation or continuation-in-part applications now or hereafter filed, or utility models issued or pending, any registered and unregistered design rights, any copyrights (including the copyright on Software), trade secrets, know-how, or any other intellectual property rights or proprietary rights whether registered or unregistered, and whether now known or

hereafter recognized in any jurisdiction, excluding trade names, service names, trademarks, service marks, and trade dress.

1.9 "Licensed Technology" shall mean the New Technology, Standard Technology and Unrestricted Technology, as applicable. All Company Improvements shall be considered Licensed Technology, subject to classification thereof by the Technology Steering Committee in accordance with Section 3.4.

1.10 "Micron Intellectual Property Rights" shall mean all Intellectual Property Rights (i) owned by Micron or sublicenseable by Micron on the terms of this Agreement without obligation to pay additional consideration to a licensor; and (ii) necessary or useful to fulfill the Objectives or to design, develop or manufacture Reticles, including any Intellectual Property Rights assigned by the Company to Micron in accordance with this Agreement.

1.11 "Micron Software" shall mean the Software owned by Micron that Micron provides to either the Company or to Photronics in accordance with this Agreement.

1.12 "Micron Technology" shall mean all Technology (i) owned by Micron or sublicenseable by Micron to the Company or to Photronics on the terms of this Agreement without obligation to pay additional consideration to a licensor; and (ii) necessary or useful to fulfill the Objectives or to design, develop or manufacture Reticles, including any Company Improvements owned by Micron pursuant to this Agreement.

1.13 "New Photronics Facility" means the new Photronics Facility to be built pursuant to the Transaction Documents in Boise, Idaho.

1.14 "New Technology" shall mean [\*\*\*\*].

1.15 "Objectives" shall mean the following business purposes for which the Company has been created and for which the Company is licensed hereunder: (i) to develop and produce prototypes for advanced, next-generation, high-end Reticles that meet Micron's specifications as provided to the Company from time to time; (ii) to achieve sustainable, leading edge production capabilities using only Approved Technology; (iii) to manufacture in production volumes approved Reticles for Micron that meet Micron's specifications and fulfill Micron's Reticle requirements; and (iv) to the extent the Company has excess capacity after fulfilling all of Micron's Reticle requirements as set forth above, and as permitted herein and pursuant to the Supply Agreement between the Company and Photronics, manufacture prototype and production Unrestricted Reticles for Photronics customers using only Approved Technology. These Objectives may be changed in accordance with the procedures set forth in the Operating Agreement.

1.16 "Photronics Controlled Subsidiary" means a subsidiary of Photronics that is primarily in the business of developing and fabricating Reticles and that is directly, or indirectly through one or more intermediaries, [\*\*\*\*], and that is controlled by Photronics.

1.17 "Photronics Facility" shall mean [\*\*\*\*].

1.18 "Photronics Improvements" means Improvements made by Photronics to Micron Technology, but not including Improvements made by Photronics employees or subcontractors while providing services to the Company.

1.19 "Photronics Intellectual Property Rights" shall mean all Intellectual Property Rights (i) owned by Photronics or sublicenseable by Photronics on the terms of this Agreement without obligation to pay additional consideration to a licensor; and (ii) necessary or useful to fulfill the Objectives or to design, develop or manufacture Reticles.

1.20 "Photronics Technology" shall mean all Technology (i) owned by Photronics or sublicenseable by Photronics to the Company or to Micron on the terms of this Agreement without obligation to pay additional consideration to a licensor, and (ii) necessary or useful to fulfill the Objectives or to design, develop or manufacture Reticles.

1.21 "Process Node" means a specific geometry loosely based on a minimum line width at which semiconductor integrated circuit devices, and the Reticles used in the manufacture of those devices, are manufactured; e.g., [\*\*\*\*].

1.22 "Qualified" shall mean [\*\*\*\*].

1.23 "Reticle" means a photomask, template or reticle that can be used to transfer an image to a wafer or workpiece.

1.24 "Software" shall mean computer program instruction code, whether in human-readable source code form, machine-executable binary form, firmware, scripts, interpretive text, or otherwise, necessary or useful to design, develop or manufacture Reticles, including related documentation. "Software" does not include databases and other information

stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

1.25 "Specifications" shall have the meaning given thereto in the Photronics to Micron Supply Agreement of even date herewith.

1.26 "Standard Technology" shall mean [\*\*\*\*]. A list of Standard Technology, if any, as of the Effective Date is set forth in Exhibit A hereto.

1.27 "Technology" shall mean all documentation, works of authorship, know-how, data and data bases, formulae, algorithms, processes, inventions and discoveries (whether or not patentable), ideas, concepts, techniques, methods, content, technical information, engineering, production and other designs, drawings, schematics, tooling requirements, and other information, technology and materials, tangible or intangible, and necessary or useful to fulfill the Objectives or to design, develop or manufacture Reticles. "Technology" shall not include (i) Software, or (ii) customer data or information related to the design, development or manufacture of Reticles for either Micron or Photronics customers.

1.28 "Technology Transfer Protocol" shall mean the preferred methodology and protocols for Micron to provide Technology implementation training to Photronics hereunder and for implementing that Technology at the Designated Facility. The initial Technology Transfer Protocol is attached hereto as Exhibit B, but may be modified from time to time by the Technology Steering Committee.

1.29 "Unrestricted Reticles" shall mean Reticles designed for use in the manufacture of products other than Competing Products.

1.30 "Unrestricted Technology" shall mean [\*\*\*\*].

## 2. LICENSES

2.1 License Grant by Micron to Company. Subject to the terms and conditions of this Agreement, Micron grants to the Company a royalty-free, non-exclusive, non-transferable license, without right of sublicense, under the Micron Intellectual Property Rights and to the Micron Technology (excluding Software), to develop, make, use, offer to sell and sell Reticles, and to create Improvements to the Micron Technology, solely in accordance with the Objectives.

2.2 License Grant by Micron to Photronics. Subject to the terms and conditions of this Agreement, including the classification procedures, use restrictions, and conditions set forth in Section 3, Micron grants to Photronics and to each Photronics Controlled Subsidiary a non-exclusive, worldwide, non-transferable (except as provided in Section 9.4), fully paid-up (subject to Section 9.4) license, [\*\*\*\*] under the Micron Intellectual Property Rights and to the Licensed Technology, to develop, use, make at Photronics Facilities, have Unrestricted Reticles made by the Company, import, offer to sell and sell Reticles, and to create Improvements to the Micron Technology.

2.3 License Grant by Photronics to the Company. Subject to the terms and conditions of this Agreement, Photronics grants to Company a royalty-free, non-exclusive, non-transferable, fully paid-up license, without right of sublicense, under the Photronics Intellectual Property Rights and to the Photronics Technology and Photronics Improvements, to develop, make, use, import, offer to sell and sell Reticles, and to create Improvements to the Micron Technology, solely in accordance with the Objectives.

2.4 License Grant by Photronics to Micron. Subject to the terms and conditions of this Agreement, Photronics grants to Micron a royalty-free, non-exclusive, non-transferable, fully paid-up license, with right of sublicense only to Photronics Improvements, under the Photronics Intellectual Property Rights and to the Photronics Technology and Photronics Improvements, to develop, make, have made, use, import, offer to sell and sell Reticles, and to create Improvements to the Micron Technology.

2.5 Software Licenses from Micron to the Company. Micron grants to the Company, subject to the terms and conditions of this Agreement, a royalty free, nonexclusive, limited license to reproduce, install and execute the Micron Software that Micron provides to the Company under Section 3 solely for the Company's internal use and only to fulfill the Objectives. The Company may make one copy of the Micron Software in machine-readable form for backup, disaster recovery or archival purposes only, and may make additional working copies beyond the copies provided by Micron as are reasonably necessary for the Company's internal use only. All such copies of Micron Software shall include all of the copyright and other proprietary notices of Micron contained on the original copy. The Company shall not assign, sublicense, transfer, pledge, lease, loan, rent to or share the Micron Software with any third party (except for Photronics personnel performing services for the Company at the Company's facilities). The Company shall not modify, decompile, reverse engineer, disassemble, or otherwise translate the Micron Software without the prior written consent of Micron in each case. Micron may from time to time provide the Company with human-readable source code for specified Micron Software. In such event, Micron will grant to the Company, subject to the terms and conditions of this Agreement, a royalty free, nonexclusive, limited license to reproduce, make derivative works of, install and execute such specified Micron Software.

2.6 Software License from Micron to Photronics. Upon the Lease Commencement Date (as defined in the Build to Suit Lease between Micron and Photronics of even date herewith), [\*\*\*\*] and for use only at the New Photronics Facility, Micron grants to Photronics, subject to the terms and conditions of this Agreement, a royalty free, non-exclusive, limited license to reproduce, install, and execute the Micron Software provided to Photronics pursuant to Section 3 below.

(a) Photronics may make one copy of the Micron Software in machine-readable form for backup, disaster recovery or archival purposes only, and may make additional working copies beyond the copies provided by Micron as are reasonably necessary for Photronics' internal use only at the New Photronics Facility. All such copies of Micron Software shall include all of the copyright and other proprietary notices of Micron contained on the original copy. [\*\*\*\*] Photronics shall not assign, sublicense, transfer, pledge, lease, loan, rent to or share the Micron Software with any third party, or use the Micron Software to perform

services for any third party (excluding manufacture of Reticles by Photronics for third parties as expressly permitted under this Agreement). Photronics shall not modify, have modified, decompile, reverse engineer, disassemble, or otherwise translate the Micron Software without the prior written consent of Micron in each case.

(b) Micron may from time to time, upon the request of Photronics and in Micron's sole discretion, provide Photronics with human-readable source code for Micron Software. In such event, Micron will grant to Photronics, a nonexclusive, limited license to reproduce, make derivative works of, install and execute such Micron Software only at the New Photronics Facility and on the terms and conditions agreed to by the parties.

(c) Photronics acknowledges that some of the Software [\*\*\*\*] may be third party Software that Micron does not have the right to sublicense. Micron will identify applicable third party Software during the process of establishing the New Photronics Facility. Photronics shall be responsible at its own expense to independently license such third party Software. If such third party Software is not available to be licensed, Micron and Photronics shall consult in good faith about alternatives to such unavailable third party Software [\*\*\*\*].

### 3. DELIVERABLES

3.1 Initial Delivery to the Company. Micron will provide to the Company immediately after the Effective Date all Technology retained by Micron [\*\*\*\*]. In addition, Micron will license and deliver to the Company the Software retained by Micron [\*\*\*\*]. Photronics will provide to the Company promptly after the Effective Date the Approved Technology listed on Exhibit D hereto. The parties acknowledge that the ability to provide certain Technology and Software to the Company will be subject to the right to sublicense third party Technology and Software pursuant to existing license agreements. [\*\*\*\*].

3.2 Initial Delivery to Photronics. Within thirty (30) days following the Effective Date, Micron will deliver to Photronics or make available to Photronics the Licensed Technology retained by Micron [\*\*\*\*]. In addition, Micron will provide Photronics certain Micron Software for implementation and use at the New Photronics Facility in accordance with the license grant set forth in Section 2.6 above. A list of such Micron Software will be determined by Micron prior to the Lease Commencement Date and will be provided to Photronics; the list will include the Micron Software reasonably necessary to assist Photronics [\*\*\*\*]. The Licensed Technology and Micron Software will be made available for electronic transfer in accordance with means to be mutually agreed by Micron and Photronics, but where necessary, physical transfers may be conducted.

3.3 Determination of Approved Technology. The Technology Steering Committee, pursuant to the Technology Steering Committee charter attached hereto as Exhibit E, will create general guidelines setting forth the process for determining whether Technology, regardless of source, will be Approved Technology for use by the Company and will make such determinations in accordance with the charter and the guidelines. The Technology Steering Committee may amend these guidelines from time to time. A negative determination will not

preclude the Technology Steering Committee from later determining that Technology does constitute Approved Technology.

3.4 Determination of Licensed Technology and Availability of Licensed Technology; Additional Deliveries of Micron Software. Within thirty (30) days following the end of each calendar quarter, the Technology Steering Committee will convene to analyze any Technology developed during such calendar quarter at or by the Company. [\*\*\*\*]. From time to time, Micron may provide Photronics additional Micron Software [\*\*\*\*] in accordance with the license grant in Section 2.6. The quarterly Technology Steering Committee meetings may be used for purposes of discussing the provision of additional Micron Software to Photronics.

3.5 Photronics Use Restrictions. [\*\*\*\*].

(a) [\*\*\*\*].

(b) [\*\*\*\*].

(c) [\*\*\*\*].

3.6 Photronics Improvements. Photronics will notify the Company and Micron no less frequently than once each calendar quarter of all Photronics Improvements recognized, logged, or recorded by Photronics pursuant to its standard internal processes for logging or tracking Improvements or inventions on its own behalf or for which Photronics seeks to claim, register, record, or file an application for recognition as an Intellectual Property Right of Photronics. Photronics promptly shall make available all such Photronics Improvements for use by the Company. As part of the quarterly meeting of the Technology Steering Committee pursuant to Section 3.4 above, the Technology Steering Committee will review any Photronics Improvements identified by Photronics as having been created the previous quarter and shall determine whether to treat the Photronics Improvements as Approved Technology. In addition, Micron shall have the opportunity to receive access to all Photronics Improvements, subject to the license grant set forth in Section 2.4.

3.7 Initial Designated Facility. [\*\*\*\*].

3.8 New Facility. [\*\*\*\*].

#### 4. TRAINING AND SUPPORT.

4.1 Initial Designated Facility Support. Micron agrees to provide Photronics technical support in connection with technology module transfers (as the term "module" is used in the Technology Transfer Protocol) [\*\*\*\*]. Photronics may request that the designated Micron support personnel travel to the Designated Facility to provide technical support and Micron will approve such travel in its reasonable judgment, based on the availability of the appropriate Micron personnel and the nature of the request, provided that Photronics shall pay all travel expenses for any Micron approved travel. Micron shall have no obligation to provide support for



implementation of Licensed Technology at Photronics facilities that are not the Designated Facility.

4.2 Support Related to New Photronics Facility. [\*\*\*\*].

4.3 On-site Training in Accordance with the Technology Transfer Protocol. In addition to the support specified in Sections 4.1, 4.2 and 4.5, Micron and Photronics anticipate that Micron will provide Photronics onsite training to be conducted at the Company to assist Photronics to learn and implement the Licensed Technology and Micron Software as authorized by this Agreement. The anticipated and preferred methodology for conducting this onsite training is set forth in the Technology Transfer Protocol, although this may be changed by the TSC. Both Micron and Photronics will make available the appropriate personnel to conduct and receive the onsite training in accordance with the guidelines and time periods set forth in the Technology Transfer Protocol.

4.4 Additional Support. Photronics may request additional support from the General Manager and the General Manager may agree to provide such additional support in its sole discretion. Any such additional support hours shall be charged to Photronics at [\*\*\*\*].

4.5 Software Support. Photronics may request Software maintenance and support from Micron. During the term, this Software maintenance and support shall be charged to Photronics at [\*\*\*\*]. During any wind-down period in which Software licenses survive the termination of this Agreement or the joint venture relationship contemplated by the Transaction Documents, Micron agrees to provide Photronics software maintenance and support services for a period of one (1) year for any Micron Software then installed at the New Photronics Facility at rates and upon terms consistent with Micron's then-standard software support rates and terms. All Micron Software support shall be subject to the terms and conditions set forth in Section (2) of Schedule 4.1(B) of the Information Technology, Operational and General Administrative Services Agreement of even date herewith. To the extent that there is any conflict between the terms and conditions of the foregoing referenced section and this Agreement, as to Software support that Micron provides to Photronics, the terms of this Agreement shall prevail. The New Photronics Facility may from time to time request that Micron make enhancements or improvements to the Micron Software or other Software installed at the New Photronics Facility. Any enhancements or improvements to the Micron Software or other Software installed at the New Photronics Facility are subject to the prior written approval of the Technology Steering Committee. Subject to the approval of the Technology Steering Committee, the same modifications may be made to the Micron Software and other Software installed at the Company.

## 5. PAYMENTS

5.1 Initial Technology License Fee. On the Effective Date, Photronics will pay Micron Seventy-two Million Dollars (\$72,000,000) for the initial provision of Licensed Technology and the licenses granted to Photronics under this Agreement to use such Licensed Technology. Such amount shall be non-refundable.

5.2 Costs. Unless otherwise set forth herein, each of Photronics and Micron shall bear its own costs and expenses regarding receipt and implementation of Technology licensed and made available to it under this Agreement. If Photronics requests that Micron provide any support on-site at a Photronics Facility, or otherwise requires a Micron employee to travel to provide technical support pursuant to Section 4 above, Photronics agrees to bear the reasonable travel and lodging expenses of the applicable Micron personnel in addition to any other fees that may apply.

5.3 Taxes. To the extent that any taxes are applicable to the license and delivery of Licensed Technology and Micron Software to Photronics pursuant to this Agreement, Photronics shall be responsible for and shall pay any applicable sales, use, excise, withholding or similar taxes, including value added taxes and customs duties due on the importation of Licensed Technology and arising from the license to Photronics under this Agreement, excluding any taxes based on Micron's net income.

## 6. OWNERSHIP; INTELLECTUAL PROPERTY PROTECTION

6.1 Ownership. Except as expressly set forth herein, this Agreement, the delivery of Technology and Software and the licenses granted hereunder shall not affect each of Photronics and Micron's ownership of its Technology and Software and the Intellectual Property Rights owned by such parties and licensed or provided to one or more parties under this Agreement. Micron shall own any and all derivative works, enhancements, improvements or modifications to Micron Software. All rights not expressly granted herein are reserved.

6.2 Ownership of Company Improvements. Subject to the license grants set forth in Section 2, Micron shall own all Company Improvements. To the extent that Photronics or the Company obtains any ownership interest in or to such Company Improvements, Photronics and the Company hereby assign and agree to assign to Micron all of their right, title and interest in and to any Company Improvements. Notwithstanding the foregoing, the Technology Steering Committee may, in its discretion and upon Photronics' written request, determine that certain Technology that would otherwise be deemed a Company Improvement but that is primarily based on or derived from Photronics Technology, shall be deemed a Photronics Improvement and treated as such under Section 6.3 below.

6.3 Ownership of Photronics Improvements. Subject to the license grants set forth in Section 2 and disclosure obligations set forth in Section 3.6, Photronics shall own all Photronics Improvements and any Intellectual Property Rights in or to such Photronics Improvements.

6.4 Patent Prosecution. Micron shall have the right in its sole discretion to prepare, file, prosecute and maintain, at its own expense, any patent applications and Patents claiming Company Improvements, and to conduct any interferences, re-examinations, reissues, oppositions or requests for patent term extension or governmental equivalents thereto. Subject to Section 7, Photronics shall have the right in its sole discretion to prepare, file, prosecute and maintain, at its own expense, any patent applications and Patents claiming Photronics

Improvements, and to conduct any interferences, re-examinations, reissues, oppositions or requests for patent term extension or governmental equivalents thereto.

6.5 Cooperation. The Company and Photronics shall each reasonably cooperate with and assist Micron at their own expense in connection with Micron's patent prosecution activities related to Company Improvements. The Technology Steering Committee will (a) facilitate communication among the parties regarding patent applications with respect to Company Improvements, (b) discuss and provide input to Micron on patent strategy with respect to Company Improvements, and (c) upon Micron's or Photronics request, review applications and other substantive papers with respect to Company Improvements prior to filing with the patent office.

#### 6.6 Enforcement.

(a) Notice. Micron and Photronics shall each promptly notify Company of its knowledge of any actual or potential infringement of Intellectual Property Rights associated with the Approved Technology.

(b) Cooperation; Costs. Each party agrees to render such reasonable assistance in connection with enforcement activities described in this Section 6.6 as the enforcing party may request. Costs of maintaining any such action shall be paid by and belong to the party bringing the action.

(c) Recoveries. If any actions are undertaken for the benefit of the Company, any damages or settlement recovered from any such action (after the deduction of the costs and fees of the action) shall be allocated as follows: (i) to Micron if the action was undertaken by Micron; or (ii) to Micron and Photronics in proportion to their actual monetary contributions to the undertaking of the action if the action is undertaken for the benefit of the Company and agreed upon in advance by Micron and Photronics to be shared.

(d) Third Party Claims of Infringement. If the manufacture, use or sale of any Reticles pursuant to this Agreement results in any claim, suit or proceeding alleging patent infringement against the Company, Micron or Photronics, the party named as the defendant in that claim, suit or proceeding shall promptly notify the other parties hereto in writing setting forth the facts of such claims in reasonable detail. The named defendant shall keep the other parties hereto reasonably informed of all material developments in connection with any such claim, suit or proceeding. The other parties shall, upon request, provide reasonable assistance and cooperation to the named defendant and may elect to participate in the defense of the claim, suit or proceeding, at its own expense using counsel of its own choice.

#### 7. CONFIDENTIALITY

All information provided, disclosed or obtained in connection with this Agreement or the performance of any of the Parties' activities under this Agreement shall be subject to the Confidentiality Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "Confidential Information" under the Confidentiality Agreement for which each

Party is considered a "Receiving Party" under such agreement. [\*\*\*\*]. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control. Furthermore, each party acknowledges and agrees that the authorized sale of a product under any of the Transaction Documents shall not constitute a breach of any confidentiality obligations under this Agreement or the Confidentiality Agreement to the extent that the authorized sale of a product inherently discloses Confidential Information of a Party. If the Confidentiality Agreement is terminated or expires and is not replaced, the Confidentiality Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the initial term and any and all extension periods or until a new Confidentiality Agreement is entered into between the parties.

## 8. LIMITED REPRESENTATIONS AND WARRANTIES

8.1 Mutual Representations. Each party hereby represents and warrants to the other parties as follows:

(a) The execution, delivery and performance of this Agreement by such party have been duly authorized by all necessary action on the part of such party.

(b) This Agreement has been duly executed and delivered by such party and, assuming due authorization, execution and delivery by the other party, constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

(c) To each party's knowledge, such party's execution, delivery and performance of this Agreement do not (i) violate, conflict with or result in the breach of any provision of the charter or by-laws (or similar organizational documents) of such party, or (ii) conflict with or violate any law or governmental order applicable to such party or any of its assets, properties or businesses.

8.2 Limited Warranty. Micron and Photronics each represent and warrant that it has all necessary right, title or interest and has obtained all necessary consents to perform its obligations and to grant the licenses it grants under this Agreement, and that, to its knowledge, and without conducting specific investigation, the Technology or Software that it provides access to under this Agreement does not infringe upon or misappropriate the Intellectual Property Rights of any third party.

8.3 Disclaimer. [\*\*\*\*].

## 9. TERMINATION

9.1 Term of Agreement. This Agreement shall become effective on the first day that it has been executed by both parties and shall remain in force for ten (10) years and will renew automatically for additional five (5) year terms, unless either Micron or Photronics terminates its

participation in the Company or unless the Agreement is sooner terminated in accordance with Section 9.2 or Section 9.3 below.

## 9.2 Termination.

(a) Micron and Photronics may terminate this Agreement upon mutual written consent.

(b) Either Micron or Photronics may terminate this Agreement at any time in the event that the other materially breaches this Agreement and, if the material breach is capable of cure, such material breach continues uncured for a period of ninety (90) days after written notice thereof. Provided that if the breach is capable of being cured and the breaching Party has worked diligently and in good faith since the receipt of the notice to cure such breach, but has not cured the breach during the allotted time, the cure period will be extended for an additional ninety (90) days.

9.3 Other Causes for Termination. Upon dissolution of the Company, or termination of the Operating Agreement, or a Permitted Photronics Change in Control (as defined in the Operating Agreement), this Agreement shall automatically terminate, and all rights to receive further disclosures of Technology and Software shall automatically terminate.

9.4 Permitted Photronics Change in Control License Transfer Fee. [\*\*\*\*].

9.5 Survival. In the event of termination of this Agreement, the parties' rights and obligations under Sections 4.4, 6, 7, 8, 9.4, 9.5, 10 and 11 shall survive and continue in effect. In addition, and notwithstanding anything to the contrary contained herein, except for a termination of the Agreement under Section 9.2(b), the licenses granted under Section 2 shall survive the termination or expiration of this Agreement, provided that [\*\*\*\*].

## 10. LIMITATION OF LIABILITY

[\*\*\*\*] Each party acknowledges that the foregoing limitations are an essential element of the Agreement between the parties and that in the absence of such limitations the pricing and other terms set forth in this Agreement would be substantially different. Each Party shall have a duty to mitigate any damages hereunder in accordance with applicable law.

## 11. MISCELLANEOUS

11.1 Amendments. This Agreement may not be amended without the prior written consent of each party hereto.

11.2 No Waiver. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and is duly executed by the party against whom the waiver is to be enforced. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial waiver or exercise thereof preclude the enforcement of any other right, power or privilege.

11.3 Notices. Unless otherwise provided herein, all notices, requests, instructions or consents required or permitted under this Agreement shall be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile; (c) ten (10) Business Days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) three (3) Business Days after deposit with an internationally recognized commercial overnight carrier specifying next-day delivery, with written verification of receipt. All communications will be sent to the addresses listed on Exhibit A of the Operating Agreement (or to such other address or facsimile number as may be designated by a party giving written notice to the other parties pursuant to this Section 11.3).

11.4 Independent Development. Subject to the license restrictions and confidentiality obligations set forth in this Agreement, nothing in this Agreement shall be construed to preclude either Micron or Photronics from directly or indirectly designing, developing, acquiring, using, marketing, licensing or selling any technology, prototypes, or production Reticles that is similar, related to or competitive with those developed, designed or manufactured by the other party or by the Company.

11.5 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements among Delaware residents entered into and wholly to be performed within the State of Delaware (without reference to any choice or conflicts of laws rules or principles that would require the application of the laws of any other jurisdiction).

#### 11.6 Construction; Interpretation.

(a) Certain Terms. The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "including" is not limited and means "including without limitation."

(b) Section References; Titles and Subtitles. Unless otherwise noted, all references to Sections and Exhibits herein are to Sections and Exhibits of this Agreement. The titles, captions and headings of this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

(c) Reference to Persons, Agreements, Statutes. Unless otherwise expressly provided herein, (i) references to a Person include its successors and permitted assigns, (ii) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto or supplements thereof and (iii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

(d) Presumptions. No party, nor its counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all provisions of this Agreement shall be construed in accordance with their fair meaning, and not strictly for or against any party.

11.7 Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

11.8 No Assignment; Binding Effect. Except as otherwise expressly provided in Section 9.4, no party may assign, delegate or otherwise transfer any of its rights or obligations hereunder to any third party, whether by assignment, transfer, Change in Control, or other means, without the prior written consent of each other party. Any attempted assignment in violation of the foregoing shall be null and void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the parties, their heirs, executors, administrators, and successors.

11.9 Severability. If any provision in this Agreement will be found or be held to be invalid or unenforceable, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement which will remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by any party. In such event, the parties will use their respective best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the parties' intent in entering into this Agreement.

11.10 Counterparts. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. Execution and delivery of this Agreement by exchange of facsimile copies bearing the facsimile signature of a party shall constitute a valid and binding execution and delivery of this Agreement by such party.

11.11 Dispute Resolution. The parties hereby agree that claims, disputes or controversies of whatever nature, arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement (or any other agreement contemplated by or related to this Agreement), shall be resolved in accordance with the dispute resolution procedures set forth in the Operating Agreement.

11.12 Third-Party Beneficiaries. None of the provisions of this Agreement shall be for the benefit of or be enforceable by any creditor of the Company or by any third-party creditor of any Member. This Agreement is not intended to confer any rights or remedies hereunder upon, and shall not be enforceable by, any Person other than the parties hereto, their respective successors and permitted assigns.

11.13 Entire Agreement. This Agreement, together with the other documents, exhibits and schedules referred to herein and therein, constitute the entire agreement among the parties hereto pertaining to the subject matter hereof, and supersede any and all prior oral and written, and all contemporaneous oral, agreements or understandings pertaining thereto. There are no agreements, understandings, restrictions, warranties or representations relating to such subject

matter among the parties other than those set forth herein and in the other documents, exhibits and schedules referred to herein and therein.

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

MICRON TECHNOLOGY, INC.

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

PHOTRONICS, INC.

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

MP MASK TECHNOLOGY CENTER, LLC

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

EXHIBITS:

- Exhibit A: Approved Technology and Licensed Technology
- Exhibit B: Technology Transfer Protocol
- Exhibit C: Software
- Exhibit D: Approved Technology of Photronics
- Exhibit E: Technology Steering Committee Charter

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



Exhibit A

Approved Technology and Licensed Technology

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Attachment 1 to Exhibit A  
Initial Approved Technology List

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Exhibit B  
Technology Transfer Protocol

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Exhibit C

Software

[\*\*\*\*]

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Exhibit D

Approved Technology of Photonics

[\*\*\*\*]

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Exhibit E

Technology Steering Committee Charter

[\*\*\*\*]

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

BUILD TO SUIT LEASE

BY AND BETWEEN

MICRON TECHNOLOGY, INC., a Delaware corporation,

as landlord

AND

PHOTRONICS, INC., a Connecticut corporation,

as tenant

BUILD TO SUIT LEASE

BY AND BETWEEN

MICRON TECHNOLOGY, INC., a Delaware corporation,  
-----

as landlord

AND

PHOTRONICS, INC. a Connecticut corporation,

as tenant

Dated: May \_\_\_\_, 2006

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BUILD TO SUIT LEASE

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THIS BUILD TO SUIT LEASE ("Lease") is made and entered into as of May \_\_, 2006, by and between MICRON TECHNOLOGY, INC., a Delaware corporation ("Micron") and PHOTRONICS, INC., a Connecticut corporation ("Photronics") (each a "Party" and collectively the "Parties").

RECITALS

(a) Micron and Photronics are each in the business of the development, fabrication and sale of photomasks.

(b) Pursuant to certain Transaction Documents (defined in Article I hereof), Micron and Photronics have entered into certain contracts with each other with respect formation and operation of the Company dedicated to the development, fabrication and sale of advanced photomasks for Micron and Photronics.

(c) In order for Photronics to obtain a facility qualified to produce the advanced photomasks for Micron pursuant to the requirements of said Transaction Documents, Micron and Photronics desire to enter into this Lease for the development, construction, leasing, equipping and ultimate conveyance to Photronics of a qualified "mask shop" production facility, subject and pursuant to the terms and conditions herein set forth.

ARTICLE I.  
DEFINITIONS

"additional rent" shall have the meaning set forth in Section 5.2.

"Affiliate" of any specified Person means any other Person Controlling or Controlled by or under common Control with such specified Person.

"Alterations" shall have the meaning set forth in Section 8.3(a).

"Applicable Laws" shall mean all present and future laws, ordinances, orders, rules, regulations and requirements of all governmental authorities having jurisdiction over the Premises, Micron or Photronics and the requirements of any applicable insurance underwriters, all of the foregoing applicable to the ownership, development, use, occupancy and maintenance of the Premises and any certificates of occupancy issued for the Premises.

"Applicable Lease Prepayment Date" shall have the meaning set forth in Section 5.3(a)(ii).

"Appropriation" shall mean any taking of or damage to all or any part of the Premises by reason of any exercise of the power of eminent domain, whether by condemnation proceedings or otherwise, or any transfer of all or any part of the Premises made in avoidance of an exercise of the power of eminent domain.

"Appropriation Award" means any award(s) paid or payable (whether or not in a separate award) to either Party after the Lease Commencement Date because of or as compensation for any Appropriation, including: (1) any award made for any improvements that are the subject of the Appropriation; (2) the full amount paid or payable by the condemning authority for the estate that is the subject of the Appropriation, as determined in Appropriation; (3) any interest on such award; and (4) any other sums payable on account of such Appropriation.

"Appropriation Effective Date" shall mean, for any Appropriation, the first date when the condemning authority has acquired title to or possession of any Premises subject to the Appropriation.

"Base Rent" shall have the meaning set forth in Section 5.1(a).

"Building" shall mean a single building (unless otherwise mutually approved by the Parties) containing approximately [\*\*\*\*] of rentable floor area and functionally similar to Micron's Existing Mask Shop.

"Business Day" shall mean any weekday on which State-chartered banks are open to conduct regular business with bank personnel.

"Capacity Commitment" shall have the meaning ascribed in the Photronics to Micron Supply Agreement.

"Casualty" shall mean any damage or destruction of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting the Building, leasehold improvements and Photronics' Improvements, whether or not insured or insurable.

"City" shall mean the city or municipality in which the Land is located.

"Closing Documents" shall have the meaning set forth in Section 4.3(a).

"Code" shall mean the United States Bankruptcy Code (11 U.S.C., Sec. 101 et seq.).

"Company" shall mean MP Mask Technology Center, LLC, a Delaware limited liability company.

"Company Operating Agreement" shall mean that certain Limited Liability Company Operating Agreement of MP Mask Technology Center, LLC dated of even date herewith between Micron and Photronics.

"Contribution and Purchase Agreement" shall mean that certain Contribution and Units Purchase Agreement of even date herewith between the Parties.

"Control" shall mean the possession, directly or indirectly, of either: (a) at least fifty-one percent (51%) direct or indirect ownership of the equity interests of a Person; or (b) the power to direct or cause the direction of the management and policies of such Person, whether by ownership of equity interests, by contract, or otherwise.

"Copy Exact" shall have the meaning ascribed in the Technology License Agreement.

"Core and Shell Work" shall have the meaning set forth in Section 16.2(b).

"Default" shall have the meaning set forth in Section 14.1.

"Default Rate" shall mean the maximum rate of interest then permitted to be charged pursuant to applicable usury laws but not to exceed fifteen percent (15%) per annum simple interest.

"Default Termination Security" shall have the meaning set forth in Section 5.3(a)(iii).

"Depository" shall mean the escrow services department of a nationally recognized title insurance company such as Chicago Title Insurance Company.

"Development Costs" shall have the meaning set forth in Section 5.1(a).

"Development Cost Notice" shall have the meaning set forth in Section 5.1(c).

"DEQ" shall have the meaning set forth in Section 16.2(d).

"Environmental Law" shall mean any Applicable Law about the following at, in, under, above, or upon the Premises: (a) air, water, land, ground water, or soil conditions; or (b) clean-up, control, disposal, generation, storage, release, transportation, or use of, or liability or standards of conduct concerning hazardous materials.

"Existing Mask Shop" shall mean the Company's mask shop facility located in Boise, Idaho as originally constructed, which current facility is being contributed to the Company by Micron pursuant to the Contribution and Purchase Agreement.

"Form of Special Warranty Deed" shall mean the Form of Special Warranty Deed attached hereto as Exhibit "C".

"hazardous materials" shall mean (a) asbestos, radioactive materials, polychlorinated biphenyls, urea formaldehyde, and all petroleum substances, and (b) all hazardous materials, hazardous wastes and hazardous or toxic substances defined in or subject to control or regulation by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C., Sec. 9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C., Sec. 6901 et seq.), the Toxic

Substances Control Act, as amended (15 U.S.C. Sec. 2601 et seq.), the Clean Water Act (33 U.S.C. Sections 1321 et seq.), the Clean Air Act (42 U.S.C. Sections 7412, et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sections 11001 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sections B6 et seq.), the Occupational Safety and Health Act (29 U.S.C. Sections 651 et seq.) or the Safe Drinking Water Act (42 U.S.C. Sections 300f et seq.) and analogous state laws.

"Improvements" shall mean collectively the Micron Improvements and the Photronics' Improvements.

"Land" shall mean the real property located in the Boise, Idaho area, as shall be reasonably determined by Micron (subject to Photronics' approval rights pursuant to Section 16.2(e)), together with all easements, rights and other appurtenances thereto.

"Lease" shall have the meaning set forth in the Preamble.

"Lease Commencement Date" shall have the meaning set forth in Section 4.2(a).

"Lease Payment Schedule" shall have the meaning set forth in Section 5.1(a).

"Lease Prepayment" shall have the meaning set forth in Section 5.3(a).

"leasehold improvements" means collectively, the Building and all Alterations (inclusive of applicable Micron Improvements and Photronics' Improvements) which may be made or installed in, on, under or upon the Premises or any improvements thereon and which are attached to the floor, walls or ceiling of any improvements on the Premises and cannot be removed without material damage to the Building, and any floor covering which is cemented or otherwise affixed to the floor of any improvements on the Premises and cannot be removed without material damage to the Building.

"Liabilities" shall have the meaning set forth in Section 9.5.

"Loss" means any Casualty or Appropriation.

"Mask Shop Equipment" shall have the meaning set forth in Section 16.3(b).

"Micron" shall have the meaning set forth in the Preamble.

"Micron Improvements" shall mean the improvements to be constructed upon the Land pursuant to Article XVI hereof consisting of the Building, together with all landscaping, lighting, parking, and other improvements constructed by Micron pursuant to Article XVI below as a part of the Premises. As used herein, the term "Micron Improvements" shall not include any Photronics' Improvements constructed by Photronics pursuant to Article XVI, any alterations made or constructed by Photronics pursuant to Section 8.3, or any furniture, fixtures, equipment (including without limitation the Mask Shop Equipment) and/or miscellaneous personal property of Photronics.

"Micron Party" and "Micron Parties" shall have the meaning set forth in Article XV.

"Micron Retained Rights" shall have the meaning set forth in Section 3.2.

"Micron's Work" shall have the meaning set forth in Section 16.2(a).

"No Default Lease Prepayment Date" shall have the meaning set forth in Section 5.3(a)(i).

"Non-Restricted Default" shall mean any Default which (a) can be cured by the payment of money alone (and which is so cured) AND the nature of the breach giving rise to the Default is not such that potential residual liability to Micron might reasonably be expected to arise after transfer to Photronics of fee title to the Premises, or (b) [\*\*\*\*].

"Non-Restricted Prepayment Date" shall have the meaning set forth in Section 5.3(a)(ii).

"Party" or "Parties" shall have the meaning set forth in the Preamble.

"Permitted Alterations" shall have the meaning set forth in Section 8.3(a). "Permitted Change in Control Transfer" shall have the meaning set forth in Section 11.1(b)(i).

"Permitted Development Easements" shall have the meaning set forth in Section 3.3(b).

"Permitted Exceptions" shall have the meaning set forth in Section 3.3(a).

"Permitted Photronics Change in Control" shall have the meaning ascribed in the Company Operating Agreement.

"Permitted Use" shall mean the operation of a facility dedicated to the fabrication of advanced photomasks, in compliance with the Transaction Documents and activities directly ancillary thereto, all in accordance with all Applicable Laws.

"Person" means any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind. (This does not limit any Transfer restriction).

"Photronics" shall have the meaning set forth in the Preamble.

"Photronics' Improvements" shall have the meaning set forth in Section 16.3(b).

"Photronics to Micron Supply Agreement" shall mean that certain Photronics to Micron Supply Agreement of even date herewith by and between the Parties.



"Photronics' Party" and "Photronics' Parties" shall have the meaning set forth in Article XV.

"Photronics' Property" shall have the meaning set forth in Section 8.3(b).

"Photronics' Signage" shall have the meaning set forth in Section 7.4(a).

"Photronics' Work" shall have the meaning set forth in Section 16.3(b).

"Premises" shall have the meaning set forth in Section 3.1.

"Prepayment Restricted Default" shall mean any Default which is not a Non-Restricted Default.

"Principal Reduction Payment" shall mean the partial prepayment of a portion of the outstanding principal balance of the Base Rent pursuant to the terms and conditions of Section 5.3(b).

"Prohibited Lien" means any mechanic's, vendor's, laborer's, or material supplier's statutory lien or other similar lien arising from work, labor, services, equipment, or materials supplied, or claimed to have been supplied, to Photronics or any subtenant (or anyone claiming through either), which lien attaches to the fee estate.

"Property Insurance Proceeds" means proceeds of insurance to be maintained by Photronics pursuant to Section 9.2 and, prior to the date of Substantial Completion for Rent Commencement, proceeds of insurance to be maintained by Micron pursuant to Section 9.8.

"Qual Period End Date" means [\*\*\*\*].

"Qualification" and "Qualified" shall have the meaning of the term "Qualified" set forth in the Photronics to Micron Supply Agreement. "Re-qualification" and "Re-qualified" shall have the same meaning.

"real property taxes" shall mean (i) all taxes, assessments and governmental charges and surcharges, (including, without limitation, assessments for public improvements or benefits whether or not commenced or completed during the term, water, sewer, storm drains and other rents, rates and charges, excises, levies, license fees, use fees, permit fees and other authorization fees) and all other charges (in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen) of every kind and character (including all penalties and interest thereon), levied upon or with respect to the Premises, during the term, (ii) any tax or excise on or measured by rents, and (iii) any other tax, however described, levied against Micron on account of the rent reserved hereunder or on the business of renting the Premises. Provided, however, that the term "real property taxes" shall not include any franchise, estate, inheritance, succession, capital levy, net income or excess profits taxes imposed upon Micron except that in the event that real property taxes are withdrawn in whole or in part or any substitute tax is made therefor or for any increase therein, such tax shall in any event for the purpose of this Lease be

considered a real property tax regardless of how denominated or the source from which it is collected.

"Related Work" shall have the meaning set forth in Section 16.2(a).

"Release" means any accidental or intentional spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leaching, migrating, dumping or disposing in, over, on, under, through, or about the air, land, surface water, ground water, or the environment (including without limitation the abandonment or discarding of receptacles containing any hazardous materials), unless and to the extent permitted or authorized by a governmental agency.

"rent" shall have the meaning set forth in Section 5.2.

"Rent Commencement Date" shall have the meaning set forth in Section 4.2(b).

"Restoration" means, after a Loss, the alteration, clearing, rebuilding, reconstruction, repair, replacement, restoration, and safeguarding of the damaged or remaining leasehold improvements and Photronics' Property (including, without limitation, the Mask Shop Equipment), at least comparable to their condition and function before the Loss and such that re-certification of the Premises is obtained and re-Qualification is achieved.

"Restoration Funds" means Appropriation Award(s) and Property Insurance Proceeds (plus deficiency deposits to be made by Photronics) to be applied to Restoration.

"Restore" means accomplish a Restoration.

"Right of First Refusal" shall have the meaning set forth in Section 4.3(b).

"Security System" shall have the meaning set forth in Section 17.23(b).

"SNDA" shall have the meaning set forth in Section 17.13.

"Special Warranty Deed" shall have the meaning set forth in Section 4.3(a).

"Substantial Appropriation" means such taking which, in Micron's sole determination, shall necessitate Restoration which is estimated to equal or exceed \$15,000,000.

"Substantial Casualty" means such damage or destruction to the Premises which, in Micron's sole determination, shall necessitate Restoration which is estimated to equal or exceed \$[\*\*\*\*].

"Substantial Completion for Photronics' Installation" shall mean [\*\*\*\*].

"Substantial Completion for Rent Commencement" shall mean, with respect to the Core and Shell Work and the Related Work, that [\*\*\*\*].

"Technology License Agreement" shall mean that certain Technology License Agreement dated of even date herewith executed by and among the Parties and the Company.

"Temporary Certificate of Occupancy" shall mean a temporary certificate of occupancy with respect to the Premises which is sufficient to permit Photronics the right to occupy the Premises for the purpose of commencing such portions of Photronics' Work which are to be performed on and with respect to the Premises.

"term" shall have the meaning set forth in Section 4.1.

"termination date" shall mean the effective date of any termination of the Lease pursuant to the provisions of the Lease.

"Timeline" shall have the meaning set forth in Section 16.1(a).

"Transaction Documents" shall mean those certain documents listed in Schedule "B" to the Contribution and Purchase Agreement.

"Transfer" shall have the meaning set forth in Section 11.1(a).

"UCC" shall mean the Uniform Commercial Code of the State of Idaho, as amended.

ARTICLE II.  
DEMISE

In consideration of Ten and No/100 Dollars (\$10.00), the rents and covenants hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which is mutually acknowledged, Micron, as landlord, hereby leases and Photronics, as tenant, hereby rents from Micron, the Premises, upon the terms and conditions herein set forth.

ARTICLE III.  
PREMISES

Section 3.1 Premises Defined  
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The "Premises" (herein so called) shall consist of the following:

(a) The "Land". Once the Land has been determined, this Lease will be amended to add as Exhibits "A" and "B", respectively, a more particular depiction of the Land and a legal description of the Land.

(b) The leasehold improvements.

(c) All references herein to the Premises shall, unless the context clearly indicates to the contrary, mean and include the Land and the Micron Improvements.

Section 3.2      Reservation of Oil, Gas, Mineral and Water Rights  
-----

Micron reserves all oil, gas, hydrocarbons, mineral and water rights in the Premises and attendant right and easement to access and extract same ("Micron Retained Rights"); provided that no such items shall be extracted in such manner as may cause or contribute to a lessening of the support of the Land and the leasehold improvements or adversely affect and compromise the use of the Premises for the Permitted Use. This reservation shall not apply if the Land is not land owned or adjacent to other land owned by Micron or an Affiliate of Micron as of the date of this Lease.

Section 3.3      Permitted Exceptions  
-----

This Lease and the conveyance of the Premises contemplated herein is and shall be made subject to the following:

(a) The lien of all ad valorem real estate taxes due and payable in the calendar year 2006 and subsequent calendar years; (b) all matters of record relating to the Land in the official records of the county in which the Land is located; (c) local, state and federal laws, ordinances or governmental regulations and the like, including but not limited to building and zoning laws, ordinances and regulations, now or hereafter in effect relating such real property; (d) any matters that would be shown on an accurate survey of current date of the Land; (e) matters resulting from the acts of Photronics or any party acting by, for, through or under Photronics; (f) the Micron Retained Rights reserved in Section 3.2; and (g) Micron's Right of First Refusal (collectively with the Permitted Development Easements, the "Permitted Exceptions"). Notwithstanding the foregoing, (a) any mortgage (and related security documents such as a UCC fixture filing) recorded against the Land in connection with financing obtained by Micron shall not be a Permitted Exception and shall be removed prior to conveyance of fee title by Micron to Photronics pursuant to this Lease; (b) any mechanic's or materialmans' lien recorded against the Land in connection with Micron's Work; (c) the lien of all real property taxes for the period prior to the Lease Commencement Date; and (d) any other lien, attachment or lis pendens recorded against the Premises caused solely by the acts or omissions of Micron shall not be a Permitted Exception and shall either be removed of record or otherwise adequately bonded to Photronics' reasonable satisfaction prior to conveyance of fee title by Micron to Photronics pursuant to this Lease.

(b) Micron and Photronics recognize that, in connection with developing the Premises, Micron may be required or may find it reasonably necessary to grant and record (i) customary public utility, drainage and other developmental easements for the benefit of the Premises for the Permitted Use; (ii) a mortgage and related security instruments against the Premises (or any part thereof) in connection with the construction and/or permanent financing of the Premises, and (iii) certain easements, covenants, declarations and/or restrictions for the benefit of adjacent land owned by Micron, if applicable. Such easements, covenants, rights, declarations and restrictions, to the extent the creation or existence of same are reasonable and customary and do not materially adversely affect the development or use of the Premises for the Permitted Use shall be referred to herein as the "Permitted Development Easements."

ARTICLE IV.  
TERM

Section 4.1 Length of Term  
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The term (the "term") of this Lease shall be from the date of the last execution and delivery of this Lease by Micron and Photronics, and shall continue for a period of twenty full calendar quarters following the Rent Commencement Date, subject to any early termination of this Lease or acceleration of the expiration date pursuant to the provisions of Section 5.3(a). The occurrence of the expiration of the Lease term upon either the last day of the term or, if applicable, upon the Applicable Lease Prepayment Date shall not be deemed a termination of this Lease for purpose of the Parties' respective rights and remedies provided for herein upon a termination of this Lease.

Section 4.2 Lease Commencement Date and Rent Commencement Date  
-----

(a) The "Lease Commencement Date" shall be the date of Substantial Completion for Photronics' Installation. Delivery of possession shall be accomplished by written notice to Photronics setting forth the effective date of the Temporary Certificate of Occupancy. Upon Substantial Completion for Photronics' Installation and delivery of possession of the Premises to Photronics, Photronics shall take possession of the Premises and commence the installation of Photronics' Improvements (inclusive of the Mask Shop Equipment) in the Building. From and after the Lease Commencement Date, Photronics shall observe or perform all obligations of the tenant pursuant to this Lease, provided that Base Rent and additional rent (other than any non-Base Rent sums specified herein to be due and payable when incurred) shall not be payable until the Rent Commencement Date. Pending the occurrence of the Lease Commencement Date as to the Premises, each Party shall observe or perform all obligations of such Party pursuant to this Lease not dependent upon the occurrence of the Lease Commencement Date including the performance of all obligations of such Party in accordance with the Timeline.

(b) The "Rent Commencement Date" shall be [\*\*\*\*]. Upon the Rent Commencement Date, Photronics shall commence payment of Base Rent and all additional rent (other than any non-Base Rent sums specified herein to be due and payable prior to the Rent Commencement Date) and from and after the Rent Commencement Date Photronics shall continue to perform all obligations of the tenant pursuant to this Lease.

(c) Within thirty (30) days following the date of Substantial Completion for Rent Commencement, Micron and Photronics shall execute and acknowledge a supplemental agreement setting forth the Lease Commencement Date and Rent Commencement Date of this Lease. Notwithstanding the foregoing, failure of Photronics to execute such supplemental agreement shall not affect the Lease Commencement Date or the Rent Commencement Date in accordance with the provisions of this Lease.

Section 4.3      Conveyance to Photronics Upon Expiration of Lease Term or  
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Prepayment; Micron Right of First Refusal  
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(a) Provided Photronics has satisfied, complied with and performed all of its obligations hereunder (subject to the terms and conditions of Section 5.3(a)), as soon as reasonably practicable but in no event more than thirty (30) days following the date of expiration of the Lease term (as same may be accelerated pursuant to Section 5.3(a)), Micron shall execute (effective as of the applicable expiration date of the Lease term) and deliver to Photronics a special warranty deed in form and substance as attached hereto as Exhibit "C" conveying Micron's right, title and interest in the Premises to Photronics subject to (a) the Permitted Exceptions, inclusive of Micron's Right of First Refusal (the "Special Warranty Deed"). In connection with any conveyance to Photronics by Micron under this Section 4.3, the Parties shall execute and deliver additional reasonably customary closing documents (such as transfer tax declarations, 1099 certification, and FIRPTA certificate) including standard title company required documents, if applicable (the "Closing Documents"). [\*\*\*\*].

(b) So long as Photronics or an Affiliate of Photronics is a member of, or holds any ownership interest in the Company or any successor joint venture between Micron (or any Affiliate thereof) and Photronics (or any Affiliate thereof) and no unrescinded notice of termination of the Company has been delivered by either Party to the other, in the event of any voluntary or involuntary sale or other conveyance of the Premises (or any part thereof) other than in connection with a Permitted Photronics Change in Control, Micron shall have ongoing right of first refusal (the "Right of First Refusal") for the purchase of the Building and the Land alone. If Photronics' proposed third party sale contract includes the sale of other real or personal property or incorporates other terms and conditions (such as service or supply contracts to be entered into with such third party) then Photronics and Micron shall agree upon the purchase price to be applicable solely with respect to the Building and Land. [\*\*\*\*].

ARTICLE V.  
RENT

Section 5.1      Base Rent  
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(a) Commencing on the Rent Commencement Date and on the first day of each calendar quarter thereafter during the Lease, Photronics shall pay to Micron in advance, at Photronics' sole expense and without deduction or offset, as base rent (the "Base Rent"), by wire transfer pursuant to wire instructions to be provided to Photronics in writing by Micron prior to the Rent Commencement Date (and as may be changed by Micron by written notice during the term), an amount to be set forth on the lease payment schedule, in the form of Exhibit "D-1" attached hereto, to be prepared by Micron following Substantial Completion for Photronics' Installation and prior to the Rent Commencement Date, which Exhibit when completed shall be incorporated herein by this reference (the "Lease Payment Schedule"). [\*\*\*\*]. Interest shall be computed on a per diem basis of a 365-day year. As used herein, the term "Development Costs" shall mean all costs and fees incurred in the design and construction of all Core and Shell Work and all Related Work with respect to the Premises, including but not limited to the following:

- (i) [\*\*\*\*];
- (ii) [\*\*\*\*].;
- (iii) [\*\*\*\*];
- (iv) [\*\*\*\*];
- (v) [\*\*\*\*];
- (vi) [\*\*\*\*];
- (vii) [\*\*\*\*];
- (viii) [\*\*\*\*];
- (ix) [\*\*\*\*];
- (x) [\*\*\*\*];
- (xi) [\*\*\*\*];
- (xii) [\*\*\*\*];
- (xiii) [\*\*\*\*];
- (xiv) [\*\*\*\*];
- (xv) [\*\*\*\*]; and
- (xvi) [\*\*\*\*].

[\*\*\*\*].

- (b) [\*\*\*\*].
- c) [\*\*\*\*].
- (d) [\*\*\*\*].

Section 5.2 Rent Defined; Additional Rent  
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As used in this Lease, the term "rent" shall mean quarterly Base Rent and additional rent, and the term "additional rent" shall mean all amounts payable by Photronics pursuant to this Lease other than Base Rent, including, without limitation, the real property taxes payable by Photronics pursuant to Article VI below, insurance as required pursuant to Article IX and any reimbursements and interest due Micron pursuant hereto. For the avoidance of any

doubt or dispute, this Lease constitutes an absolutely "net lease." The Base Rent shall give Micron an absolutely "net" return for the term, free of any expenses or charges for the Premises, except as this Lease expressly provides. Photronics shall pay as additional rent and discharge before failure to pay creates a material risk of forfeiture or penalty, each and every item of expense, of every kind and nature whatsoever, related to or arising from the Premises, or by reason of or in any manner connected with or arising from the leasing, operation, management, maintenance, repair, use, or occupancy of, or Photronics' Work relating to, the Premises. All Base Rent and additional rent shall be paid without deduction or offset in lawful money of the United States of America which shall be legal tender at the time of payment. When no other time is stated herein for payment, payment of any amount due from Photronics to Micron hereunder shall be made within thirty (30) business days after delivery of Micron's invoice or statement therefor.

Section 5.3 Lease Prepayment; Principal Reduction Payments.  
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(a) Lease Prepayment. Subject to the terms and conditions herein set forth, at any time after (but not on or prior to) the occurrence of the [\*\*\*\*], Photronics shall have the right to prepay this Lease in full (the "Lease Prepayment") and shorten the Lease term to expire as herein provided:

(i) Provided no Default then exists, Photronics shall have the right to make the Lease Prepayment upon at least ten (10) Business Days prior written notice to Micron of its intent to prepay and shall designate the Lease Prepayment date in said notice (the "No Default Lease Prepayment Date").

(ii) In the event a [\*\*\*\*] exists either as of the date of written notice to Micron of Photronics' desire to make the Lease Prepayment or upon the date of payment of the Lease Prepayment, Photronics shall have the right to make the Lease Prepayment upon such date which is the later of (1) a date at least ten (10) Business Days following the date of delivery of written notice to Micron of Photronics' desire to prepay and (2) a date at least ten (10) Business Days following the date of Photronics' satisfaction of the conditions which qualify such Default as a Non-Restricted Default (the "Non-Restricted Prepayment Date").

(iii) In the event a Prepayment Restricted Default exists either as of the date of written notice to Micron of Photronics' desire to make the Lease Prepayment or upon the date of payment of the Lease Prepayment, Photronics shall have the right to make the Lease Prepayment PROVIDED that the foregoing Lease Prepayment shall be subject to satisfaction of the following requirements. [\*\*\*\*]. Regardless of the form or nature of the Default Termination Security, Photronics shall also grant Micron and Micron Parties the [\*\*\*\*].

(iv) Notwithstanding Section 4.1 to the contrary, the Lease term shall expire upon the Applicable Lease Prepayment Date provided all the conditions for Lease Prepayment have been satisfied in accordance with this Section 5.3(a) and Micron shall deliver the Special Warranty Deed to Photronics within thirty (30) days following the Applicable Lease Prepayment Date.



(v) If the Applicable Lease Prepayment Date occurs on the first day of a calendar quarter, the Base Rent portion of such Lease Prepayment shall be in such amount as shall be set forth in the column entitled "Prepayment Amount/Balance" in the then current Lease Payment Schedule. If the Applicable Lease Prepayment Date occurs on a date other than the first day of a calendar quarter, the Base Rent portion of such Lease Prepayment shall be in such amount as determined by Micron based upon the methodology used for calculation of the "Prepayment Amount/Balance" referenced above. The Lease Prepayment shall be made in the same manner as then required for payment of Base Rent (e.g., wire transfer). In addition to payment of the "Prepayment Amount/Balance" amount (and satisfaction of all other conditions set forth in this Section 5.3(a)), as a condition to Lease Prepayment and conveyance of fee title to the Premises to Photronics, Photronics shall pay all additional rent accrued through the Applicable Lease Prepayment Date.

(b) Principal Reduction Payments. Photronics shall have the right to make Principal Reduction Payments in addition to the Base Rent due and payable under this Lease subject to and upon satisfaction of the following terms and conditions:

(i) No uncured monetary Default then exists;

(ii) A Principal Reduction Payment shall be made no more frequently than one time in each calendar quarter of the term (and shall be made in the same manner as then required for payment of Base Rent (e.g., wire transfer)) following at least ten (10) Business Days' prior written notice thereof to Micron specifying the amount and the date upon which such partial prepayment shall be made;

(iii) Such Principal Reduction Payment shall constitute an advance payment to be applied first towards outstanding principal payable under the Lease and not an early payment of the immediately succeeding quarterly installment of Base Rent or principal then payable hereunder. For purposes of the foregoing, principal means the principal portion of the Base Rent payable under this Lease and shall be such amount as would be set forth in a then current Lease Payment Schedule reflecting all then current adjustments, if any, to Base Rent as of such date pursuant to this Lease (e.g., taking into account prior Partial Prepayments). Following any such Principal Reduction Payment, the Lease Payment Schedule shall be modified to reflect the aforesaid interest and principal prepayment and the amounts payable under the Base Rent, Interest, Principal, Repayment Amount/Balance, Cumulative Interest Paid and Principal Paid and Default Rent Reimbursement columns of the Lease Payment Schedule shall be appropriately adjusted for the quarter after the date of such Principal Reduction Payment through the balance of the payments to be made for the term taking into account such adjustments; and

(iv) Prior to the occurrence of the [\*\*\*\*], Photronics shall not have the right to prepay more than [\*\*\*\*] of the principal balance of the Base Rent which is payable for the period from the Rent Commencement Date through the Qual Period End Date.

(c) Under no circumstances shall Photronics be entitled to conveyance of fee title to the Premises prior to the occurrence of the Qual Period End Date. Photronics

acknowledges that Micron's retention of ownership of the Premises at least through the Qual Period End Date was a material inducement to Micron's agreement to enter into this Lease and the Photronics to Micron Supply Agreement. For the avoidance of doubt, this Section 5.3(c) supersedes and controls in the event of any conflict or inconsistency with any other provision of this Lease.

ARTICLE VI.  
TAXES

Section 6.1 Real Property Taxes  
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Photronics shall pay, as additional rent, all real property taxes levied or assessed by, or becoming payable to any governmental authority having jurisdiction, for or in respect of the Premises, for each tax period wholly included in the period between the Lease Commencement Date and the expiration of the term (as same may be accelerated by prepayment). All such payments shall be made directly to the authority charged with the collection thereof not less than ten (10) business days prior to the earlier of the last date on which the same may be paid without interest or penalty or upon which it would otherwise be deemed "delinquent" as provided in Section 6.3. Micron and Photronics shall use commercially reasonable efforts to cause the Premises to be separately assessed with the bills for real property taxes to be delivered directly to Photronics. In the event that such bills are delivered to Micron, Micron shall promptly deliver copies thereof to Photronics. Photronics shall provide to Micron at least seven (7) Business Days prior to the due date for payment of such taxes, a copy of a receipted tax bill or other documentary evidence reasonably satisfactory to Micron, showing the amount of the taxes due and the payment of same as required herein. For any fraction of a tax period included in the period between the Lease Commencement Date and the expiration of the term (as same may be accelerated by prepayment), Photronics shall pay to Micron, within thirty (30) days after receipt of Micron's invoice therefor, that portion of the total taxes levied or assessed or becoming payable which is allocable to such included period, determined by multiplying the total taxes by a fraction whose denominator is the number of days in the tax period and whose numerator is the number of days in the period between the Lease Commencement Date and the expiration of the term (as same may be accelerated by prepayment). In the event Photronics fails to pay any real property tax bill before the delinquency date thereof, Micron may, but need not, pay the same on behalf of Photronics and such amount thereafter shall become immediately due and payable as additional rent by Photronics upon delivery of Micron's written demand therefor. The obligation of Photronics pursuant to this Section 6.1 shall extend to any increase in real property taxes resulting from any reassessment of the Premises and shall survive the expiration or termination of this Lease. For the purposes of this Article VI, real property taxes which are levied on a fiscal year (which is different from a calendar year) basis shall be deemed to apply one-twelfth (1/12) to each calendar month in such fiscal year.

Section 6.2      Separate Tax Parcel  
-----

(a) In the event that the Premises is not levied and assessed as a separate tax parcel, Micron shall use its commercially reasonable efforts to cause the Premises to be assessed and taxed as a separate tax parcel as soon as practicable.

(b) If the Premises is not assessed and taxed as a separate tax parcel, then notwithstanding anything to the contrary set forth in this Article VI, "real property taxes" shall mean, as to the Premises:

(i) That portion of the real property taxes assessed against the land underlying the tax parcel which the square footage of the Premises bears to the aggregate square footage of all land within the applicable tax parcel; plus

(ii) That portion of the real property taxes assessed against the leasehold improvements included within the tax parcel which the valuation assigned by the taxing authorities to the leasehold improvements included within the Premises bears to the valuation so assigned to all of the leasehold improvements included within such tax parcel. If such separate valuations are available from the county tax assessor, then such separate valuations shall be conclusive. If such separate valuations are not reasonably available to Micron, then Micron shall determine, reasonably and in good faith, from the best information reasonably available to it, the proportion of the real property taxes assessed against the leasehold improvements included within such tax parcel which is attributable to the leasehold improvements upon the Premises.

(iii) With respect to other types of taxes, a proportion thereof based upon the assessment methodology used by the assessor, or if such methodology cannot be used to determine Photronics' portion, then a reasonable proportion as determined by Micron.

In the event that the Premises is not assessed and taxed as a separate tax parcel, then real property taxes for or in respect of the Premises shall be paid by Photronics to Micron not later than the earlier of (A) thirty (30) days after Micron's delivery of written notice of the amount thereof and (B) ten (10) days prior to the delinquency date therefor. Photronics shall be solely liable for any late penalties or interest resulting from any failure to timely pay Micron or the taxing authority. There shall be no administrative or overhead fee payable to Micron with respect to real property taxes payable by Photronics. Micron and Photronics acknowledge and agree that it is their intent that real property taxes be billed to and paid directly by Photronics. Accordingly, Micron and Photronics agree that:

(A) Each shall take all steps reasonably necessary to cause the real property tax bills with respect to the Premises to be mailed directly to Photronics; and

(B) Neither Party shall take any action to cause the Premises to be taxed other than as a separate tax parcel.

Section 6.3 Other Taxes  
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Photronics shall be responsible for and shall pay or cause to be paid not later than ten (10) business days prior to delinquency all municipal, county and state taxes, levies and fees of every kind and nature, including but not limited to general or special assessments assessed during the term against any leasehold interest, leasehold improvements, Mask Shop Equipment or other personal property of any kind, owned by or placed in, upon or about the Premises by Photronics or its sublessees, concessionaires, franchisees or licensees, if any. Photronics shall cause all taxes imposed upon any personal property situated in or on the Premises to be levied or assessed separately from the Premises and not as a lien thereon. Upon request of Micron, Photronics shall, not later than the delinquency date for any such tax, furnish to Micron documentary proof of payment of said tax.

Section 6.4 Right to Contest  
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Provided that the Premises are separately assessed and taxed, Photronics shall have the right, at Photronics' sole risk and cost, to contest the amount and/or validity of the applicable real property taxes by appropriate legal proceedings; provided, however, that said right shall be availed of by Photronics only upon the condition that Photronics shall indemnify, defend and hold Micron and the Premises harmless from any loss, cost or expense, including, but not limited to, Micron's reasonable attorneys' fees, court costs and expenses of litigation, which in any manner arise from or with respect to such contest and upon the further condition that Photronics shall take any and all actions, including, but not limited to, the payment of any judgment or bonding requirement, so as to prevent the loss or forfeiture of the Premises or any part thereof or of any other property of Micron. The foregoing shall not, however, be deemed or construed to relieve, modify, or extend Photronics' covenant to pay any such real property taxes at the time and in the manner provided in this Article VI, unless such proceedings shall operate to prevent the sale of the Premises or any part thereof or any other property of Micron or the placing of any lien thereon or on any other property of Micron to satisfy such taxes prior to the final determination of such proceedings. Under such circumstances, upon the termination of such proceedings, Photronics shall promptly pay all real property taxes, if any, then payable as the result of such proceedings and the interest and penalties in connection therewith, and the charges accruing in such proceedings. To the extent Micron receives any refund for any real property taxes paid by Photronics hereunder, Micron shall promptly pay and deliver such refund to Photronics.

ARTICLE VII.  
CONDUCT OF BUSINESS BY PHOTRONICS

Section 7.1 Use of Premises  
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(a) Photronics shall use the Premises only for the Permitted Use and for no other use or purpose.

(b) Photronics shall continuously operate the Premises for the Permitted Use throughout the Lease term. In furtherance and not in limitation of the foregoing obligation, Photronics hereby covenants to operate the Premises in such a manner to [\*\*\*\*].

(c) Photronics shall not use the Premises in violation of any Applicable Laws, including without limitation, the certificate of occupancy issued for the Premises. Without limitation of Photronics' obligations pursuant to the immediately preceding sentence, subject to the provisions of Section 7.3, Photronics shall promptly comply with Applicable Laws together with all protective covenants and architectural standards, if any, applicable to the Premises upon five (5) Business Days written notice from Micron or within the time specified in any notice received from any governmental authority, whichever is earlier, discontinue any use of the Premises which is a violation thereof.

(d) Photronics shall not do or permit anything to be done in or about the Premises which will allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Photronics cause, maintain or permit any nuisance or commit any waste in, on or about the Premises. Photronics shall not (i) place a load upon any floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry or (ii) violate any mandatory restrictions generally imposed by any governmental authority with respect to conservation of energy, water, gas or electricity or reduction of automobile or other emissions. Photronics shall not do or permit to be done anything which will injure the Premises or invalidate any insurance policy(ies) covering the Premises or property located therein. Photronics shall maintain no outside storage which is not appropriately screened from the view of the public.

(e) Photronics shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises without first having obtained Micron's prior written consent.

Section 7.2      Restrictions on Use  
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Photronics shall, at Photronics' sole cost and expense, procure any and all governmental licenses and permits required for Photronics' use of the Premises and shall at all times comply with all requirements of such licenses or permits; provided, however, to the extent such permits (such as applicable Department of Environmental Quality permits pursuant to Section 16.2(b)) shall be obtained by Micron on behalf of Photronics in the course of Micron's Work, Photronics shall reimburse Micron for its cost and expenses (including employee time and expense) within thirty (30) days of delivery of an invoice therefor. Photronics shall not use or permit the use of the Premises in any manner that will damage or deface the Premises. Photronics shall not do, or suffer to be done, or keep or suffer to be kept, anything on the Premises or on any property therein which will prevent the obtaining of any insurance on the Premises or on any property therein, including, but without limiting the generality of the foregoing, fire, all risk coverage, and public liability insurance, or which may make void any such insurance.

Section 7.3 Contest of Requirements  
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Notwithstanding the foregoing, Photronics may contest any Applicable Law or alleged violation thereof, so long as Micron's interest in the Premises and the Land are not thereby adversely affected and such contest may not impact or jeopardize Photronics' ability to satisfy its obligations under the Photronics to Micron Supply Agreement or, before the [\*\*\*\*], any other Transaction Documents, and Micron shall, at Photronics' request, join in such contest if its participation is necessary and unobjectionable to Micron, but at no expense to Micron. If any security must be posted, or any order must be obtained to forestall compliance with such requirement pending the determination of such contest, Photronics shall post such security or shall obtain such order prior to commencing such contest and such action shall be a condition to Photronics' right to contest. If such contest is finally determined adversely to Photronics, Photronics shall promptly comply with the requirement(s) determined to be applicable to the Premises and shall indemnify and hold Micron harmless from all liabilities, damages, costs (including costs and attorneys' fees incurred or awarded in such contest) and expenses occasioned by any non-compliance by Photronics and any delay in effecting compliance, including any delay occasioned by a contest determined adversely to Photronics.

Section 7.4 Exterior Signs and Sign Monument(s)  
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(a) Photronics shall have sign rights for the Premises, including both exterior signage on the Building and any monument signage placed upon any sign monument(s) constructed by Photronics. All such signage ("Photronics' Signage") shall be subject to the following:

(i) All Photronics' Signage shall be the sole responsibility of Photronics, as to fabrication, construction and erection thereof and payment of the costs thereof.

(ii) All Photronics' Signage (including location) shall be subject to the prior written approval of Micron based upon drawings and specifications therefor prepared by Photronics and reasonably approved by Micron, and all Photronics' Signage shall conform to the drawings and specifications therefor approved by Micron, which approval shall not be unreasonably withheld or delayed.

(iii) All Photronics' Signage shall comply with all Applicable Laws and shall be professionally done, neat and attractive and of a quality consistent with the quality of the Building.

(iv) Photronics shall maintain, repair, remove and replace Photronics' Signage as a part of Photronics' obligations pursuant to Section 8.2 so that Photronics' Signage is at all times maintained in a neat, clean, good condition.

(b) Within ten (10) days after any termination of this Lease (as provided in the last sentence of Section 4.1) or Photronics' right to possession of the Premises pursuant hereto,

Photronics shall, at Photronics' sole cost, remove all Photronics' Signage and repair all damage to the Building and/or the sign monument(s) caused by such removal.

ARTICLE VIII.  
MAINTENANCE, REPAIRS AND ALTERATIONS

Section 8.1     Micron's Obligations  
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(a) Except as provided in subsection (b) below, Micron shall not be obligated or required at any time to maintain or repair the Premises or any leasehold improvements thereon or bear any part of the expense of any improvement, alteration or change of any nature in or about the Premises or any part thereof.

(b) Notwithstanding the provisions of subsection (a) above or anything else to the contrary contained in this Lease, for a period [\*\*\*\*], Micron shall, at Micron's sole cost and expense, promptly repair or replace, or cause to be repaired or replaced, any portion of Micron's Work which shall be materially defective. Such repair or replacement shall be commenced within a reasonable period after Micron's receipt of written notice from Photronics of the need for such work, but only if such notice is given within such [\*\*\*\*] and shall be completed regardless of any claim by Micron against any contractor whether under a warranty or otherwise. For the purposes of this subsection:

(i) Micron may satisfy its obligation pursuant to this subsection by causing Micron's general contractor or any subcontractor who has provided a warranty or guaranty to perform such repair or replacement. Micron shall use commercially reasonable efforts to obtain commercially standard warranties under its construction contract at no additional cost therefor.

(ii) The provisions of this subsection shall not apply to any damage to Micron's Work caused by Photronics, any employee, agent or contractor of Photronics, any business visitor or guest of Photronics, any vandal or any casualty (fire, wind, rain, lightning, etc.). Micron's obligations hereunder shall be limited to defects in the original construction, repair or replacement (without extending the original [\*\*\*\*] warranty period) of Micron's Work.

Upon the expiration of the [\*\*\*\*] specified in this subsection, Micron shall, upon request of Photronics, assign to Photronics all warranties and guaranties received by Micron with respect to Micron's Work to the extent assignable by, and without cost to, Micron.

Section 8.2     Photronics' Obligations  
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(a) Subject to the provisions of Section 8.1 and Article X, Photronics shall (i) from and after the Lease Commencement Date keep in good order, condition and repair (excepting only reasonable wear and tear) all of the Premises and all leasehold improvements thereon and every part thereof, including the Building, Mask Shop Equipment, furnishings and other personal property of Photronics, and all landscaped and parking areas (which shall be kept

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

free of weeds and debris). Photronics shall promptly at Photronics' own cost and expense make all necessary repairs and replacements, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, as necessary to maintain the Premises and all leasehold improvements thereon and every part thereof, in good condition and, prior to the [\*\*\*\*], such that full Qualification can be and is maintained. Photronics shall provide whatever treatment may be necessary, as often as may be required, to keep the Premises and all leasehold improvements thereon and every part thereof neat and attractive. Photronics' maintenance and repair obligations pursuant to this subsection shall specifically include the roof and roof membrane of the Building. In furtherance of the foregoing, Photronics shall at all times during the term of this Lease maintain in effect a maintenance contract covering the heating, ventilating and air-conditioning equipment serving the Building with a maintenance firm and containing such service requirements as shall be reasonably acceptable to Micron.

(b) If Photronics fails to perform its obligations under this Section 8.2, Micron may at its option, after thirty (30) days written notice to Photronics and failure of Photronics to perform such obligations within such thirty (30) day period, enter upon the Premises and put the same in good order, condition and repair and the cost thereof shall become due and payable as additional rent by Photronics to Micron upon demand. Micron need not, however, wait for the expiration of such thirty (30) day period to remedy any condition which poses a danger to persons or property or which will or may result in the imposition of a fine or penalty upon Micron if not cured prior to the expiration of such period.

Section 8.3      Alterations and Additions  
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(a) Photronics shall not, without the prior written consent of Micron, which consent shall not unreasonably be withheld or delayed so long as same is not reasonably anticipated to interfere with Photronics' continuous operations and satisfaction of its Capacity Commitment, make any alterations, improvements, remodeling or additions (collectively, "Alterations") to the Premises. Notwithstanding the foregoing, any Alteration which does not affect (i) any structural elements of the Building, (ii) any mechanical, electrical or plumbing systems of the Building, (iii) the "Clean Room" or any support systems or facilities therefor (i.e. only impact the "office" portion of the Building), and (iv) are commercially reasonably estimated to cost [\*\*\*\*] for all work pertaining to such Alteration and such Alteration does not otherwise affect the matters set forth in (i), (ii), or (iii) above (the "Permitted Alterations"), may be performed upon seven (7) days' prior written notice to Micron. All Alterations made by Photronics shall be done with diligence, in a good and workmanlike manner, consistent with the construction quality of Micron's Work and in compliance with all Applicable Laws and the requirements of this Lease. The cost of any Alterations shall be paid or discharged by Photronics so that the Premises and all leasehold improvements thereon shall at all times be free of liens resulting therefrom. Photronics shall supply to Micron, promptly upon completion thereof, a set of as-built drawings therefor on mylar for all Alterations.

(b) Other than leasehold improvements, all installations by Photronics, including Mask Shop Equipment and all other personal property of Photronics placed in or on the Premises are herein referred to as "Photronics' Property." All Photronics Property shall



remain the sole and exclusive property of Photronics subject to Micron's right to purchase and/or obtain a security interest in the Mask Shop Equipment under Section 14.2. Except as expressly provided to the contrary in this Article VIII, all leasehold improvements shall be the property of Micron through the Lease term. Such leasehold improvements shall remain upon and be surrendered with the Premises at any termination of this Lease in accordance with the provisions of this Lease relating to termination hereof other than in connection with a conveyance of fee title to the Premises to Photronics; provided, however, if requested instead Photronics shall remove any leasehold improvements at Photronics' sole cost within ten (10) days following any such termination and restore the Premises to substantially the same condition as the Premises existed at the time Micron tendered delivery of possession thereof to Photronics, less reasonable wear and tear.

(c) Photronics shall promptly in writing notify Micron of the filing of any mechanics' lien against the Premises arising out of work performed by or for Photronics and shall cause the same to be removed consistent with the provisions of Section 17.12.

(d) The approval by Micron of any specifications, working drawings or other plans with regard to Photronic's Work, and including, without limitation, Alterations to be made by Photronics of or to the Premises or with respect to the Mask Shop Equipment or other Photronics' Improvements, or at any time during the term of this Lease, shall not be deemed to be a representation or warranty by Micron as to the adequacy or sufficiency of such specifications, working drawings or other plans or of the improvements or construction contemplated thereby for any use or purpose. By its approval thereof, Micron assumes no liability or responsibility therefor, or for any defect in any improvements, equipment, or construction made pursuant thereto.

(e) Before commencement of any work of improvement in the Premises, Photronics shall give Micron fifteen (15) days written notice thereof, specifying precisely the expected date of commencement. For the period from ten (10) days prior to commencement of such work and during the performance thereof (or such other period required by Applicable Law), Micron may maintain in the Premises or otherwise post where and as required by Applicable Law such notices of non-responsibility or other notices as may be necessary to protect Micron against liability for liens and claims.

ARTICLE IX.  
INSURANCE; INDEMNITY

Section 9.1      Liability Insurance  
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Photronics shall at all times from and after the Lease Commencement Date (or any such earlier date on which Photronics shall have the right to access the Premises for any purpose), and at its sole cost and expense, for the protection of Photronics and Micron, as their interests may appear, maintain in full force and effect a policy or policies of insurance which afford the following coverages:

(a) Worker's Compensation in the statutorily required amount, including employer's liability with a liability limit of not less than [\*\*\*\*] per occurrence.

(b) Comprehensive General Liability Insurance or Commercial Liability Insurance with an aggregate liability amount not less than [\*\*\*\*] combined single limit for both bodily injury and property damage, including blanket contractual liability (including Photronics' indemnification obligation under Section 9.5 subject only to commercially standard exclusions and limitations to such indemnification coverage), broad form property damage, personal injury, completed operations, products liability and host liquor liability. Such coverage shall be provided by a combination of a primary and/or excess liability policy. The liability insurance policy required to be maintained by Photronics pursuant to this subsection shall be on an occurrence (as opposed to claims made) basis.

(c) Business Automobile Liability insurance providing bodily injury and property damage liability coverage for not less than [\*\*\*\*] each accident limit. Business Automobile Liability insurance shall be written on a standard ISO policy form, or an equivalent form, providing coverage for liability arising out of owned, hired, or non-owned vehicles in connection with Photronics' performance of the Photronics' Work as well as operations upon the Premises.

Section 9.2 Casualty Insurance - Fixtures, Mask Shop Equipment,

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Personal Property and Photronics' Improvements  
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(a) Photronics shall at all times from and after the Lease Commencement Date (or any such earlier date on which Photronics shall have the right to access the Premises for any purpose), and at Photronics' sole cost and expense, maintain in effect policies of insurance covering all Photronics' Property located in, on or about the Premises, including without limitation the Mask Shop Equipment, fixtures, furnishings, equipment, furniture, inventory and stock in trade, in an amount not less than their full replacement value, providing protection against any peril included within the classification "All Risk," including but not limited to insurance against fire, sprinkler leakage, vandalism and malicious mischief, and flood coverage and earth movement. Sublimits, if any, would be applied to the leasehold improvements as described in Section 9.2(b). The insurance required by this subsection shall be the primary insurance with respect to the property covered thereby. Micron shall not be named as a loss payee with respect to property damage insurance for Photronics' Property. Photronics is responsible for all deductibles or self-insurance reserve.

(b) Photronics shall at all times from and after the Lease Commencement Date (or any such earlier date on which Photronics shall have the right to access the Premises for any purpose) during the term maintain in effect policies of insurance covering all leasehold improvements, including without limitation, the Building and all leasehold improvements, providing protection against any risk included within the classification "All Risk," including all coverages listed in Section 9.2(a), such insurance to be in an amount no less than the full replacement value of such Improvements and naming Micron as loss payee for such interest (other than under Section 9.2(a)). The deductible or self-insurance reserve for the insurance

pursuant to Sections 9.1 and this Section 9.2 shall not exceed [\*\*\*\*] per occurrence. The insurance required by this subsection shall be the primary insurance with respect to the property covered thereby. Micron shall be named as a loss payee and additional insured with respect to the insurance covering the Building and all leasehold improvements.

(c) Property Insurance Proceeds shall be payable as provided in Article X.

Section 9.3 Insurance Policies  
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(a) Micron, and any other persons designated by Micron and having an insurable interest in the Premises, shall be additional insureds as their interests may appear pursuant to the policies required by Section 9.1(b) and (c) and Section 9.2. From and after the Lease Commencement Date, the insurance required by Sections 9.1 and 9.2 shall be the primary insurance as respects Micron (and any other additional insureds designated by Micron) and not contributory with any other available insurance. The policy or policies providing the coverage required by these Sections (other than Section 9.1(a)) shall contain an endorsement providing, in substance, that "such insurance as is afforded hereby for the benefit of Micron and any additional insureds designated by Micron shall be primary and any insurance carried by Micron and any additional insureds or insureds designated by Micron shall not be contributory." In no event shall the limits of any coverage maintained by Photronics pursuant to Sections 9.1 and 9.2 be considered as limiting the liability of Photronics pursuant to this Lease.

(b) All insurance required to be carried by Photronics shall be with companies rated A:VIII, or better, in the then most recent version of Best's Key Rating Guide. Photronics shall deliver to Micron at least ten (10) days prior to the time such insurance is first required to be carried, and thereafter at least ten (10) days prior to the expiration or renewal date of any policy so maintained, copies of the policies or certificates evidencing such insurance. All policies and certificates delivered pursuant to this Section shall contain liability limits not less than those set forth in Sections 9.1 and 9.2, shall list the additional insureds and shall specify all endorsements and special coverages required by Sections 9.1 and 9.2. Each such policy shall contain a provision (by endorsement or otherwise) requiring not less than thirty (30) days written notice to each Party prior to any cancellation, non-renewal or material amendment thereof. Any insurance required to be maintained hereunder may be provided by means of a so-called "blanket" policy, so long as the Premises is specifically covered therein (by rider, endorsement or otherwise) and the policy otherwise complies with the provisions of this Lease. If, on account of Photronics' failure to comply with any provision of this Article IX, Micron or any other additional insured is adjudged a co-insurer by its insurance carrier, then any loss or damage to Micron or such additional insured shall sustain by reason thereof shall be borne by Photronics and shall be paid by Photronics upon receipt of a bill therefor and evidence of such loss.

Section 9.4 Waiver of Subrogation  
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Micron and Photronics each hereby waives any and all rights of recovery against the other, and against the partners, officers, employees, agents, representatives, customers and business visitors of such other Party, for loss of or damage to such waiving Party or its property or the property of others under its control, arising from any cause insured against under any

policy of insurance required to be carried by such waiving Party pursuant to the provisions of this Lease (or any other policy of insurance carried by such waiving Party in lieu thereof) at the time of such loss or damage. The foregoing waiver shall be effective whether or not a waiving Party shall actually obtain and maintain the insurance which such waiving Party is required to obtain and maintain pursuant to this Lease (or any substitute therefor). Each Party shall, upon obtaining the policies of insurance which it is required to maintain hereunder, give notice to its insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

Section 9.5     Indemnity  
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To the fullest extent permitted by law, and subject to the last sentence of this subsection, Photronics shall indemnify, defend and hold Micron, its officers, agents, employees and partners harmless from and against any Liabilities or expense (including but not limited to loss of life and reasonable attorneys' fees and costs of defense) which may result from the use or occupation of the Premises or any Improvements thereon by Photronics, its employees, agents, invitees and contractors or the breach of the provisions of this Lease by Photronics, its agents, employees, contractors, or other persons claiming under Photronics. Such indemnification shall extend to Liabilities arising from any activity, work, or thing done, permitted or suffered by Photronics or any such person in or about the Premises and shall further extend to any Liabilities arising from any default in the performance of any obligation on Photronics' part hereunder. "Liabilities" shall include all suits, actions, claims and demands and all expenses (including attorneys' fees and costs of defense) incurred in or about any such Liability and any action or proceeding brought thereon. It is understood and agreed that payment shall not be a condition precedent to enforcement of the foregoing indemnification obligations. Photronics' defense obligations hereunder shall include the obligation, upon demand, to defend Micron against any claim or action of the types herein specified by legal counsel reasonably satisfactory to Micron. Notwithstanding anything to the contrary in this Lease, this subsection shall not apply to any damage or injury which Photronics establishes in a court of competent jurisdiction was proximately caused by the gross negligence or willful misconduct of Micron, its agents, employees or contractors.

Section 9.6     Exemption of Micron  
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Neither Micron nor its agents or employees shall be liable for any loss of any property by theft nor for injury or damage which may be sustained by the person, goods, wares, or property of Photronics, its employees, invitees or customers or any other person in or about the Premises, or for loss or interruption of business, caused by or resulting from any peril which may affect the Premises, including, but not limited to fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether such damage or injury results from conditions arising upon the Premises, or from other sources. Photronics, as a material consideration to Micron, assumes all risk of damages to property and injury to or death of persons in or about the Premises from any cause. Notwithstanding anything to the contrary herein, this Section 9.6 shall not apply

to the extent of any damage or injury which Photronics establishes in a court of competent jurisdiction was proximately caused by the gross negligence or willful misconduct of Micron, its employees or agents.

Section 9.7 Notices  
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Photronics shall give prompt notice to Micron in case of fire or casualty in, on, under or to the Premises.

Section 9.8 Builder's Risk Insurance to be Maintained by Micron  
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From and after the date of "ground breaking" upon the Land through the Date of Substantial Completion for Rent Commencement, Micron (or, at Micron's election, Micron's general contractor) shall provide "All Risk" Builder's Risk Insurance with a limit sufficient to cover property values of the Building and of the materials stored upon the Land relating to Micron's Work and destined to be incorporated into the Premises naming Photronics as an additional insured. The cost of such insurance shall be included in Development Costs.

ARTICLE X.  
DAMAGE OR DESTRUCTION AND APPROPRIATION

Section 10.1 Damage or Destruction  
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(a) Damage to the Premises.

(i) Subject to the provisions of this Article X, in the event of any Casualty from and after the Lease Commencement Date, Photronics shall give Micron immediate oral and prompt written notice thereof and Micron shall give Photronics similar notice in the event of Casualty prior to the Lease Commencement Date.

(ii) If any Casualty occurs, then: (a) no rent shall abate; (b) this Lease shall not terminate or be impaired except as provided in Section 10.3; (c) the Party or Parties designated in Section 10.1(b) shall promptly Restore as provided in Section 10.1(b); and (d) Photronics shall not be released from any of its liabilities or obligations hereunder by reason of damage to or destruction of the Premises, the Improvements or Photronics' Property. Restoration for which Photronics is responsible shall be performed by a general contractor approved by Micron.

(b) Restoration.

(i) Prior to Lease Commencement Date. Unless a Substantial Casualty or Substantial Appropriation has occurred and the Lease is terminated pursuant to Section 10.3, from the execution of this Lease until the Lease Commencement Date, Micron shall have the sole right and authority to adjust any insurance or Appropriation claim in connection with Restoration.

(ii) Lease Commencement Date through date of Substantial Completion for Rent Commencement. Unless a Substantial Casualty or Substantial Appropriation has occurred and the Lease is terminated pursuant to Section 10.3, from the Lease Commencement Date until the date of Substantial Completion for Rent Commencement, during which period the casualty insurance coverages required of both Parties under Article IX are to be in place, the Parties shall jointly and in good faith adjust any insurance and Appropriation claims in connection with Restoration and shall similarly agree upon the allocation of responsibility for the Restoration between the Parties (using the original specification of Micron Work and Photronics' Work as a guideline therefor).

(iii) From and After date of Substantial Completion for Rent Commencement. Unless a Substantial Casualty or Substantial Appropriation has occurred and the Lease is terminated pursuant to Section 10.3, from and after the date of Substantial Completion for Rent Commencement, Photronics shall have the sole right and authority to adjust any insurance or Appropriation claim in connection with Restoration.

(iv) In the event of any Casualty or Appropriation under Sections 10.1 (b)(ii) or (iii) for which the Restoration Funds (or Photronics' portion of the cumulative Restoration Funds) exceeds [\*\*\*\*], Photronics shall direct its insurers (or governmental authority in the case of Appropriation) to disburse all Restoration Funds payable to Photronics (including Photronics' deficiency deposit) to the Depository to be held in an interest bearing joint order escrow account to be held and disbursed subject to a written construction escrow and disbursement agreement between the Parties and the Depository. Any Restoration Funds paid directly to Photronics (or, prior to the date of Substantial Completion for Rent Commencement, paid directly by Micron) shall be held in trust by Photronics (or, as applicable, to Micron) to be applied for Restoration. To obtain each disbursement from the Depository, Photronics shall deliver to the Depository:

(A) A certificate of Photronics' licensed architect, confirming that in such architect's professional judgment: (a) the sum then being requested is then properly due and payable to contractors, subcontractors, or other Persons for Restoration; (b) Restoration is proceeding in compliance with the applicable plans and specifications (being those for the original construction, equipment, and certification of the Premises); (c) the sum being requested does not exceed the amount then due and payable; (d) except in the case of the final disbursement of Restoration Funds, the remaining Restoration Funds after disbursement are reasonably anticipated to suffice to pay for the remaining Restoration yet to be performed; and (e) in the case of the final disbursement of Restoration Funds, Photronics has substantially completed Restoration and obtained a certificate of occupancy for the Restoration to the extent Applicable Law requires, the Premises have been re-certified and Re-qualification has been achieved or reaffirmed, and delivered (or simultaneously delivers in exchange for payment) final lien waivers from all Persons otherwise entitled to claim a Prohibited Lien because of the Restoration;

(B) For any disbursement (or group of disbursements) above [\*\*\*\*] in aggregate or if not previously delivered to Depository within the preceding five days,

evidence reasonably satisfactory to the Depository that no Prohibited Lien exists, except any to be fully paid from the current disbursement;

(C) Progress lien waivers for Restoration completed and paid for through the date of the preceding disbursement; and

(D) Such other documents, deliveries, certificates, and information as Micron or the Depository reasonably requires.

(v) If the Casualty or Appropriation occurs prior to the date of Substantial Completion for Rent Commencement, Micron shall have no obligation to Restore or consent to Photronics' pursuit of Restoration if the combined cost of Restoration and completion of Micron's Work are anticipated to exceed the budgeted amount for Micron's Work upon which Micron commenced the Micron Work, unless Photronics shall agree to pay the difference (which shall be escrowed with the Depository as Restoration Funds as a condition to Micron proceeding) between the Restoration Funds and the aforesaid budgeted amount for Micron's Work (as may be adjusted, if necessary, as a result of the Casualty). During the period between the Lease Commencement Date and the date of Substantial Completion for Photronics' Installation, Photronics shall be obligated to Restore Photronics' Work regardless of the availability of Restoration Funds if Micron, as provided above, determines it shall Restore Micron's Work. Other than pursuant to Section 10.3 in the case of termination upon Substantial Casualty, in all events (and irrespective of the sufficiency of Restoration Funds), from and after the date of Substantial Completion for Rent Commencement, Photronics shall be obligated to complete Restoration. In all instances, if the Restoration Funds shall be insufficient to pay the entire cost of Restoration, Photronics shall be obligated to pay any deficiency. Provided all Micron Work is completed and paid in full, upon the completion of Restoration and payment in full therefor, any Restoration Funds then remaining shall be allocated to Photronics to reimburse Photronics for payment of such deficiency, unless any deficiency was paid by Micron, in which case the remaining Restoration Funds shall be paid to Micron to fully reimburse Micron before any disbursement to Photronics.

Section 10.2    Appropriation.  
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In the event of a temporary or permanent Appropriation during the term of this Lease, the rights and obligations of Micron and Photronics with regard to such Appropriation, including rights to all Appropriation Awards shall be as provided in this Article X.

(a) In the event of an Appropriation, (a) no rent shall abate; (b) this Lease shall not terminate or be impaired except as provided in Section 10.3; and (c) the Party or Parties designated in Section 10.1(b) shall promptly Restore as provided in Section 10.1(b) regardless of cost or availability of Appropriation Awards. In the event of a Substantial Appropriation, either Party may terminate this Lease (subject to the requirement under Section 10.3 with respect to Photronics' right to terminate) and the rents and other charges payable by Photronics hereunder shall be apportioned to the Appropriation Effective Date. The termination date of this Lease shall be as set forth in Section 10.3(b).

(b) If this Lease may not be terminated upon the occurrence of the Appropriation or is not terminated in the event of a Substantial Appropriation, the Premises shall be promptly Restored (including all Improvements and Photronics' Property) so that upon Restoration the Premises shall be substantially the same quality and character as existed immediately prior to such Appropriation and re-certification of the Premises and re-Qualification shall be achieved. There shall be no adjustment in the rent payable by Photronics hereunder as the Base Rent is not computed based upon the floor area of the Premises leased. Such Restoration shall be the sole responsibility of Photronics both as to performance and payment of the costs thereof. Photronics shall pay any deficiency above any Appropriation Awards necessary to Restore the Premises as required herein. Photronics shall be required to Restore in accordance with plans and specifications approved by Micron if the Building shall be altered as a result of the Appropriation and the Restoration shall be performed by a general contractor approved by Micron. Restoration following an Appropriation shall include the obligation to obtain re-certification of the Premises and re-Qualification.

(c) Appropriation Awards shall be allocable to Photronics for Restoration and shall be paid directly to Photronics or deposited with a Depository on the same terms and conditions as applicable to Restoration Funds under Section 10.1(b). Any Appropriation Awards in connection with a Substantial Casualty following which this Lease is terminated pursuant to Section 10.3(a) shall be allocated between Micron and Photronics in the manner provided in Section 10.3(b).

(d) A sale by Micron to any authority having the power of eminent domain, either under threat of Appropriation or while Appropriation proceedings are pending, shall be deemed an Appropriation for all purposes under this Article X.

Section 10.3 Termination of Lease upon Substantial Casualty or

Substantial Appropriation.

(a) Notwithstanding the provisions of Section 10.1 or Section 10.2, both Micron and Photronics shall have the option to terminate this Lease in the event of a Substantial Casualty or Substantial Appropriation, as applicable; provided, however, that a condition to Photronics' exercise of such termination right shall be payment to Micron of an amount equal to [\*\*\*\*].

(b) If either Party elects to terminate this Lease pursuant to this Section 10.3, then:

(i) This Lease shall terminate in the event of a Substantial Casualty upon the last day of the calendar quarter in which such Party exercises its termination option, and, in the event of Substantial Appropriation, the last day of the calendar quarter in which the Appropriation Effective Date occurs.

(ii) In the event of a Substantial Casualty, the Parties shall jointly adjust the insurance claims relating to the Loss; and in the event of a Substantial Appropriation, the Parties shall jointly prosecute claims for all Appropriation Awards



irrespective of whether a particular award would relate to the fee estate, leasehold estate, Improvements, Photronics' Property or other interests or property for which compensation may be paid in connection with the Substantial Appropriation.

(iii) The Restoration Funds or Appropriation Awards, as applicable, shall be allocated and paid as follows:

(A) First, Micron shall receive Property Insurance Proceeds or Appropriation Awards, as applicable, in an amount equal to the "Prepayment Amount/Balance" designated in the then current Lease Payment Schedule (taking into account any adjustments thereto to such date) for the first Applicable Lease Prepayment Date occurring after (x) the date of the Substantial Casualty (in event of Substantial Casualty) and (y) the Appropriation Effective Date (in event of Substantial Appropriation)); and

(B) Second, subject to the proviso of Section 10.3(a), Photronics shall receive any remaining Property Insurance Proceeds or Appropriation Awards, as applicable.

(c) In the event either Party elects to terminate in the event of a Substantial Casualty or Substantial Appropriation, provided that the requirements of Section 10.3(a) and 10.3(b) shall have been satisfied, and (as provided in Section 5.3(c)) the Qual Period End Date shall have occurred, then, upon thirty (30) days' prior written notice of its request to have fee title to the Premises conveyed, Micron shall deliver the Special Warranty Deed to Photronics and the Parties shall otherwise enter into the Closing Documents as contemplated under Section 4.3(a).

Section 10.4 No Micron Liability for Casualty or Appropriation.  
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Photronics shall have no claim against Micron for any damage or loss suffered by Photronics by reason of any Casualty or Appropriation. Photronics hereby waives the provisions of any statute, law or judicial decision now or hereafter in effect contrary to the obligations of Photronics under this Article X or which relieve Photronics therefrom.

ARTICLE XI.  
ASSIGNMENT AND SUBLETTING

Section 11.1 Micron's Rights  
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(a) [\*\*\*\*]. In no event shall Photronics hypothecate, encumber or grant any security interest in the leasehold estate in the Premises created by this Lease. Consent by Micron to one or more assignments of this Lease or to one or more sublettings of the Premises shall not operate to exhaust Micron's rights under this Section 11.1. The voluntary or other surrender of this Lease by Photronics or a mutual cancellation hereof shall not work a merger, and shall, at the option of Micron, terminate all or any existing subleases or subtenancies or shall operate as an assignment to Micron of such subleases or subtenancies.

(b) In the event that this Lease is assigned to any person or entity pursuant to the provisions of the Code, all consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Micron, shall be and remain the exclusive property of Micron and shall not constitute property of Photronics or of the estate of Photronics within the meaning of the Code. Any consideration constituting Micron's property pursuant to the immediately preceding sentence not paid or delivered to Micron shall be held in trust for the benefit of Micron and shall be promptly paid or delivered to Micron.

(i) Notwithstanding anything to the contrary contained in this Section 11.1, provided [\*\*\*\*], Photronics shall comply and shall make the assignee comply with all of the following as are applicable:

(A) The use of the Premises shall continue to be the Permitted Use.

(B) The assignee shall assume or otherwise confirm that Photronics and such assignee remain liable for the obligations of Photronics by means of a written agreement in form and substance reasonably satisfactory to Micron.

(C) Photronics shall not be released from any of the obligations of the tenant hereunder, whether accruing prior to or subsequent to the effective date of such transfer.

(D) At least thirty (30) days prior to the effective date of [\*\*\*\*], Photronics shall notify Micron in writing of the effective date of the transaction, the name of the entity acquiring the controlling interest in Photronics or with whom Photronics is being merged, the facts which bring such transaction within the scope of this subsection and any change in the address for notices to tenant pursuant to this Lease. Such notice shall be accompanied by any executed agreement required pursuant to clause (B) above. Notwithstanding the foregoing, if a Permitted Photronics Change in Control is in connection with an unsolicited tender offer or proxy contest, then Photronics will provide notice to Micron of such proposed Change in Control as promptly as practicable but in no event more than two (2) Business Days following the commencement of such tender offer or the notice to Photronics of such proxy contest.

Section 11.2      No Release of Photronics  
-----

No sublease, assignment or other transfer, even with the consent of Micron, shall relieve Photronics of its obligation to pay the rent and to perform all of the other obligations to be performed by Photronics hereunder. The acceptance of rent by Micron from any other person shall not be deemed to be a waiver by Micron of any provision of this Lease or to be a consent to any assignment, sublease or transfer. The foregoing restrictions shall be binding upon any assignee or subtenant to which Micron has consented. Any sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article XI shall be void. If any assignee defaults in any performance due hereunder, Micron may proceed directly against Photronics without exhausting its remedies against such assignee.

ARTICLE XII.  
RESERVED

ARTICLE XIII.  
UTILITY SERVICES

Section 13.1     Utility Charges  
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Photronics shall contract for and pay, directly to the purveyors of such services, all charges, surcharges, taxes and other fees for gas, water, sanitary and storm sewer, electricity, telephone and other utility services furnished to the Premises subsequent to the Lease Commencement Date and all fees for installation of any facilities to supply such services or for connection by Photronics to any facilities of the purveyors of such services. Notwithstanding the foregoing, it is understood and agreed that installation and connection fees consistent with the Existing Mask Shop may be paid by Micron as a part of Development Costs. Moreover, billing for utility services to the Premises shall initially be to Micron (with the service bills included in Development Costs) and Photronics shall be required to change such billings to Photronics. Photronics shall effect such change on the Lease Commencement Date or as soon thereafter as possible. Pending such changeover, service billings shall remain in Development Costs or if not included therein constitute additional rent hereunder payable within thirty (30) days of invoice from Micron; upon affecting such changeover, Photronics shall pay such service billings directly to the service purveyors. If any such charges are not paid when due Micron may, but shall not be obligated to, pay the same, and any amount so paid by Micron shall become due to Micron from Photronics as additional rent upon presentation by Micron of an invoice therefor.

Section 13.2     Interruption of Service  
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Micron shall not be liable for damages or otherwise for any failure or interruption of any utility service being furnished to the Premises and no such failure or interruption shall entitle Photronics to terminate this Lease or to an abatement of rent hereunder.

ARTICLE XIV.

DEFAULTS AND REMEDIES

Section 14.1     Defaults  
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The occurrence of any one or more of the following events shall constitute a "Default" by Photronics:

(a) The failure by Photronics to make any payment of Base Rent, additional rent, or other payment required to be made by Photronics hereunder, as and when due, where such failure shall continue for a period of ten (10) days after the due date.

(b) The failure by Photronics to observe or perform any of the express covenants or provisions of this Lease to be observed or performed by Photronics, other than as specified in this Section 14.1, where such failure shall continue for a period of thirty (30) days

after written notice thereof from Micron to Photronics; provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under Applicable Laws; and provided further, that if the nature of Photronics' default is such that more than thirty (30) days are reasonably required for its cure, then Photronics shall not be deemed to be in default if Photronics shall commence such cure promptly upon notice from Micron and thereafter diligently prosecute such cure to completion within ninety (90) days after such written notice.

(c) (i) The making by Photronics of any general assignment for the benefit of creditors; (ii) the filing by or against Photronics of a petition to have Photronics adjudged a "Debtor" or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Photronics, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Photronics' assets located at the Premises or of Photronics' interest in this Lease, where possession is not restored to Photronics within sixty (60) days; (iv) the attachment, execution or other judicial seizure of substantially all of Photronics' assets located at the Premises or of Photronics' interest in this Lease, where such seizure is not discharged within sixty (60) days; or (v) Photronics' convening of a meeting of substantially all of its creditors for the purpose of effecting a moratorium upon or composition of its debts.

(d) The failure by Photronics to comply with the requirements of Section 16.3, Section 17.1 or Section 17.12 hereof.

(e) [\*\*\*\*].

(f) [\*\*\*\*].

(g) [\*\*\*\*].

(h) [\*\*\*\*].

Section 14.2 Remedies  
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(a) In the event of any Default by Photronics, in addition to any other remedies available to Micron at law or in equity, including such remedies as provided by Applicable Laws, Micron may terminate this Lease and Photronics shall immediately surrender possession of the Premises to Micron. In the event of such termination of this Lease:

(i) Micron shall be entitled to recover from Photronics all amounts which Micron is entitled to recover pursuant to Applicable Laws, including, but not limited to any amount reasonably necessary to compensate Micron for all the detriment proximately caused by Photronics' failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, specifically including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including reasonable brokerage commissions and any necessary repair, renovation and alteration of the Premises, reasonable attorneys' fees, and any other reasonable costs; and

(ii) Micron shall, upon the first day of the calendar quarter following Micron's notice to Photronics of its election to terminate this Lease following such Default, pay to Photronics the following amounts: [\*\*\*\*]. In the event of such election, Photronics shall, at least two (2) Business Days' prior to the effective date of such termination purge all Photronics' customer information from all systems, files and equipment located upon the Building and Micron agrees to promptly turn over to Photronics and not thereafter use any such customer information it may subsequently find. Photronics indemnity under this Lease shall extend to any such customer claims resulting from Photronics failure to so purge this information and such indemnity shall survive the termination of this Lease without any limitation. In the event of Micron's election of the remedy set forth in this Section 14.2(a)(ii) and Photronics compliance with its obligation under this Section 14.2(a)(ii), Micron shall, upon consummation of the transfers contemplated herein (including any applicable bills of sale, lease assignments, etc.) in form and substance satisfactory to Micron, waive its claim for recovery of any unamortized Base Rent payable under this Lease from and after the effective date of Lease termination.

(b) In any action for unlawful detainer commenced by Micron against Photronics by reason of any Default hereunder, the reasonable rental value of the Premises for the period of the unlawful detainer shall be deemed to be the amount of Base Rent and additional rent reserved in this Lease for such period, unless Micron or Photronics shall prove to the contrary by competent evidence.

(c) The rights and remedies reserved to Micron herein, including those not specifically described, shall be cumulative, and except as provided by Idaho statutory law in effect at the time, Micron may pursue any or all of such rights and remedies, at the same time or otherwise.

(d) No delay in exercising or omission to exercise by Micron of any right or remedy shall be or be construed as a waiver of such right or remedy or of any Default by Photronics hereunder. The acceptance by Micron of any rent hereunder shall not be a waiver of any preceding breach or Default by Photronics of any provision hereof, other than the failure of Photronics to pay the particular rent accepted, regardless of Micron's knowledge of such preceding breach or Default at the time of acceptance of such rent, or a waiver of Micron's right to exercise any remedy available to Micron by virtue of such breach or Default. The acceptance of any payment from a debtor in possession, a trustee, a receiver or any other person acting on behalf of Photronics or Photronics' estate shall not waive or cure a Default under Section 14.1(c). The term "rent" as used in Sections 14.1 and 14.2 shall include the Base Rent, additional rent and all other sums required to be paid by Photronics pursuant to this Lease.

Section 14.3      Determination of Rent  
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For the purposes of this Article XIV, the rent due for any calendar quarter after re-entry by Micron shall be determined in the manner provided in Section 14.2(b).

Section 14.4     Default by Micron  
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Micron shall not be deemed to be in default in the performance of any obligation required to be performed by it hereunder unless and until it has failed to perform such obligation within thirty (30) days after written notice by Photronics to Micron specifying wherein Micron has failed to perform such obligation. Provided, however, that if the nature of Micron's obligation is such that more than thirty (30) days are required for its performance then Micron shall not be deemed to be in default if it shall commence such performance promptly upon notice from Photronics and thereafter diligently prosecute the same to completion. Photronics' remedies for Micron's default shall be limited to suit or action and shall not extend to withholding or offsetting rent or withholding of any performance to be undertaken by or on behalf of Photronics hereunder or under any other Transaction Document.

Section 14.5     Expense of Litigation  
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If either Party incurs any expense, including reasonable attorneys' fees, in connection with any action or proceeding instituted by either Party by reason of any default or alleged default of the other Party hereunder or for a declaration of the rights and obligations of the Parties hereunder, the Party prevailing in such action or proceeding shall be entitled to recover its reasonable expenses from the other Party. For the purposes of determining what expenses and fees are reasonable, the court shall look to the nature of the proceeding and the issues and scope of the proceeding, and shall not be bound by any court schedule or guideline which purports to establish the amount of expenses or fees to be awarded based upon the nature of the proceeding, the size of the award or similar standards.

Section 14.6     Holding Over  
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Neither Photronics nor anyone claiming under Photronics shall have any right to remain in possession of the Premises or any part thereof after any termination of this Lease. Micron shall have all rights and remedies, including of re-entry, as provided hereunder or under Applicable Law.

Section 14.7     Micron's Rights  
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All covenants and agreements to be performed by Photronics under this Lease shall be performed by Photronics at Photronics' sole cost and expense and without any abatement of rent. If Photronics fails to pay any sum of money, other than rent, required to be paid by it or fails to perform any other act on its part to be performed, and such failure continues beyond the grace period, if any, set forth in the Article providing for such obligation, then in addition to any other remedies provided herein Micron may, but shall not be obligated to do so, without waiving or releasing Photronics from any obligations of Photronics, make any such payment or perform any such other act on Photronics' part. Micron's election to make any such payment or perform any such act on Photronics' part shall not give rise to any responsibility of Micron to continue making the same or similar payments or performing the same or similar acts. Photronics shall, within ten (10) days after written demand therefor by Micron, reimburse Micron for all sums so paid by Micron and all necessary incidental costs, together with interest



for or relating to the Premises, then Photronics shall be solely responsible for obtaining same at its sole cost and expense subject to Micron's consent which shall not be unreasonably withheld or delayed so long as such proposed change for which the new or modified license or permit is requested shall not create any potential liability for the Premises not anticipated in connection with the operation of the Premises for the Permitted Use. No such proposed change by Photronics shall be made until Photronics obtains such new or modified license or permit. Micron shall cooperate as reasonably requested by Photronics (and at Photronics' sole cost and expense) to obtain such new or modified permits or licenses to which Micron has consented. Without limitation of the foregoing restriction and any other requirements of this Article XV, Photronics shall, within ten (10) Business Days after Photronics' receipt of Micron's written request therefor, advise Micron in writing of any hazardous materials then maintained by Photronics in the Premises, the use of each such hazardous material and the approximate quantity of each such hazardous material so maintained by Photronics, together with written certification by Photronics stating, in substance, that neither Photronics nor any person for whom Photronics is responsible has released or discharged any hazardous materials in or about the Premises. Additionally, if the Land is contiguous or adjacent to other land owned or leased by Micron or any Affiliate of Micron within the meaning of any applicable Environmental Law, from time to time throughout the lease term upon written request from Micron, Photronics shall provide Micron with real time access to Photronics computer systems and records relating to Photronics' chemical inventory and accounting systems relating to the Permitted Use at the Land and the Premises and copies of any and all information necessary for Micron's compliance with any and all federal permitting, record keeping, reporting or other obligations under any Applicable Laws. For example, and without limitation of the foregoing, Micron shall have the right to access the internal chemical management system for air-permitting and Emergency Planning Community Right to Know Act toxic release reporting purposes.

Photronics shall not Release or permit the Release of any hazardous materials in, over, on, under, through, from, or about the Premises in violation of any Applicable Laws.

In the event that Photronics proposes to conduct any use or to operate any equipment which will or may utilize or generate a hazardous material other than as specified in the first paragraph of this Article XV, Photronics shall first in writing submit such use or equipment to Micron for approval. No approval by Micron shall relieve Photronics of any obligation of Photronics pursuant to this Article XV, including the removal, clean-up and indemnification obligations imposed upon Photronics by this Article XV. Photronics shall, immediately upon receipt thereof, furnish to Micron copies of all notices or other communications received by Photronics with respect to any actual or alleged release or discharge of any hazardous material in or about the Premises and shall, immediately upon obtaining knowledge thereof, whether or not Photronics receives any such notice or communication, notify Micron in writing of any discharge or release of hazardous material by Photronics or anyone for whom Photronics is responsible in or about the Premises. In the event that Photronics is required to maintain any hazardous materials license or permit in connection with any use conducted by Photronics or any equipment operated by Photronics in the Premises, copies of each such license or permit, each renewal or revocation thereof and any communication relating to suspension, renewal or revocation thereof, shall be furnished to Micron within five (5) Business Days after



receipt thereof by Photronics but in no event later than five (5) Business Days prior to the date any adverse action could be taken with respect to Micron or the Premises pursuant to such notice. Compliance by Photronics with the two immediately preceding sentences shall not relieve Photronics of any other obligation of Photronics pursuant to this Article XV.

Upon any violation of the foregoing covenants, Photronics shall be obligated, at Photronics' sole cost, to clean-up and remove from the Premises all hazardous materials introduced into the Premises by Photronics or any Photronics' Party. Such clean-up and removal shall include all testing and investigation required by any governmental authorities having jurisdiction and preparation and implementation of any remedial action plan required by any governmental authorities having jurisdiction or that Micron may require in its reasonable discretion. All such clean-up and removal activities of Photronics shall, in each instance, be conducted to the satisfaction of Micron and to the satisfaction of all governmental authorities having jurisdiction. Micron's right of access pursuant to Section 17.2 shall include the right to enter, inspect and test the Premises for compliance with Photronics' covenants in this Article XV, provided that such right is reasonably exercised and the exercise of such right does not unreasonably interfere with Photronics' use and occupancy of the Premises. If any governmental authority or lender to Micron shall require testing for hazardous materials in the Premises, and it is determined as the result of such testing that hazardous materials have been disposed of, released or discharged in or about the Premises, then Photronics shall reimburse Micron for all reasonable costs of such testing as additional rent hereunder in addition to Photronics' remediation obligations hereunder or pursuant to Environmental Laws or any other Applicable Law and this Lease.

Photronics shall indemnify, defend and hold harmless Micron, its shareholders, officers, employees, agents and lenders from and against any and all claims, liabilities, losses, actions, costs and expenses (including reasonable attorneys' fees and costs of defense) incurred by such indemnified persons, or any of them, as the result of (A) the introduction into or about the Premises by Photronics, its employees, subtenants, licensees, contractors, agents, invitees or trespassers (each, a "Photronics' Party" and, collectively, the "Photronics' Parties") of any hazardous materials, (B) the usage, storage, maintenance, generation, production or disposal by Photronics or any Photronics' Party of hazardous materials in or about the Premises, (C) the discharge or release in or about the Premises by Photronics or any Photronics' Party of any hazardous materials, (D) any injury to or death of persons or damage to or destruction of property resulting from the use, introduction, maintenance, storage, generation, disposal, disposition, release or discharge by Photronics or any Photronics' Party of hazardous materials in or about the Premises, and (E) any failure of Photronics or any Photronics' Party to observe the foregoing covenants of this Article XV. Payment shall not be a condition precedent to enforcement of the foregoing indemnification provision.

In the event the Land was owned by Micron or an Affiliate as of the date of this Lease, Micron shall indemnify, defend and hold harmless Photronics, its shareholders, officers, employees, agents and lenders from and against any and all claims, liabilities, losses, actions, costs and expenses (including reasonable attorneys' fees and costs of defense incurred by such indemnified parties, or any of them as a result of (A) the introduction into or about the Premises

by Micron, its employees, licensees, contractors, agents, invitees or trespassers, in each instance other than Photronics or any Photronics' Parties (each a "Micron Party" and, collectively, the "Micron Parties") of any hazardous materials, (B) the usage, storage, maintenance, generation, production or disposal by Micron or any Micron Party of hazardous materials in or about the Premises, (C) the discharge or release in or about the Premises by Micron or any Micron Party of any hazardous material and (D) any injury to or death of persons or damage to or destruction of property resulting from the use, introduction, maintenance, storage, generation, disposal, disposition, release or discharge by Micron or any Micron Party of hazardous materials in or about the Premises prior to the date of execution of this Lease.

If the Land is being acquired by Micron in connection with entering into this Lease (and is not as of the date of this Lease already owned by Micron or an affiliate thereof), then, no later than thirty (30) days following Micron's acquisition of the Land (but in any event prior to ground breaking), Micron shall cause to be undertaken a baseline environmental site assessment of the Land in scope (and with a written report to be produced) reasonably acceptable to the Parties and the cost therefor shall be a Development Cost. In the event the Land is property already owned by Micron, Micron shall provide Photronics with copies of existing environmental site assessment reports it has in its actual possession.

Upon prior written request by Photronics, or otherwise at Micron's election, within thirty (30) days after any termination of this Lease Micron shall at Photronics' sole cost and expense retain a hazardous materials consultant (to be reasonably approved by Photronics) to conduct a survey or audit of the Premises to determine whether or not hazardous materials introduced by Photronics or any Photronics' Party are present in or about the Premises. Photronics shall cooperate fully with Micron and such consultant in the conduct of any such survey or audit. If such survey or audit reveals the presence of hazardous materials brought into or upon the Premises by Photronics in violation of the provisions of this Article XV, Photronics shall pay for the cost of such audit. Such payment shall be made by Photronics to Micron, as additional rent, within thirty (30) days after Photronics' receipt of Micron's invoice therefor. Otherwise, the cost of such survey or audit shall be borne by Micron. If the audit or survey discloses the presence of hazardous materials introduced by Photronics or any Photronics' Party, the provisions of this Article XV pertaining to Photronics' remediation obligations and Micron's remedies for violations of Photronics' covenants hereunder shall apply to such hazardous materials and Photronics' obligations with respect thereto.

Upon any violation of the foregoing covenants, Micron shall be entitled to exercise all remedies available to a landlord against a defaulting tenant, including but not limited to those set forth in Article XIV. Without limiting the generality of the foregoing, Photronics expressly agrees that upon any such violation Micron may, at its option, (A) after notice and failure to cure pursuant to Section 14.1, terminate this Lease or (B) continue this Lease in effect until compliance by Photronics with its clean-up and removal covenant notwithstanding any earlier expiration date of the term of this Lease. No action by Micron hereunder shall impair the obligations of Photronics pursuant to this Article XV.

Photronics acknowledges that incorporation of any material containing asbestos in any Building is absolutely prohibited. Photronics agrees that it shall not knowingly incorporate or permit or suffer to be incorporated any material containing asbestos into any Building. Photronics shall not be in breach of the foregoing covenant by virtue of any asbestos placed or caused to be placed in any Building by Micron, whether pursuant to the performance of Micron's obligations hereunder or otherwise.

The covenants contained in this Article XV shall survive the expiration or any earlier termination of this Lease.

ARTICLE XVI.  
IMPROVEMENT OF THE PREMISES

Section 16.1      Timeline; Commitment for Equipment Financing;  
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Coordination  
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(a) [\*\*\*\*]. The Parties hereby agree to the milestone and completion dates set forth on Exhibit "E" hereto (the "Timeline") as the agreed upon outside dates for performance to achieve Qualification of the Premises. The Timeline shall not be altered, modified or waived in any respect other than by written amendment to this Lease substituting a mutually agreed upon revised Timeline. Micron and Photronics acknowledge and agree that portions of Photronics' Work within the Building may proceed concurrently with portions of Micron's Work so long as same does not interfere with or delay the substantial completion of Micron's Work.

(b) Micron and Photronics agree that Micron and Photronics, and their respective representatives and contractors, shall cooperatively schedule and coordinate the performance of Micron's Work and Photronics' Work on the Premises to facilitate completion of the Premises in accordance with the Timeline and to avoid interference by either Party's contractor, agents or employees with the other in the performance of their respective work on the Premises.

Section 16.2      Micron's Work  
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(a) Micron shall use commercially reasonable efforts in prosecuting Micron's Work in accordance with the Timeline. Micron shall perform the following work ("Micron's Work") with respect to the Premises:

(i) [\*\*\*\*].

(ii) [\*\*\*\*].

[\*\*\*\*].

(b) Micron's Work shall be performed pursuant to such working drawings, plans and specifications as Micron shall determine are necessary and appropriate to construct a mask shop operation which functionally is substantially similar to the original construction of the

Existing Mask Shop. In this regard, all architects, engineers, contractors (including the general contractor), subcontractors, materialmen, consultants, and any other service or goods providers in connection with Micron's Work shall be selected by Micron in its sole discretion. Micron shall be responsible for obtaining all governmental permits and approvals required with respect to Micron's Work but Photronics shall cooperate therein as reasonably requested by Micron. Micron shall use the same standard of care in selection of such service providers and preparation of the plans, specifications and other relevant working drawings as Micron undertook in connection with the construction of the Existing Mask Shop. [\*\*\*\*]. The Parties agree that any contract, agreement, arrangement or understanding entered into by Micron with any Affiliate for the provision of any Micron Work, shall be on an arms-length basis; notwithstanding the foregoing, however, reimbursement of employee time (e.g., wages and benefits) and costs incurred and to be included in Development Costs shall be based on the actual costs and expenses incurred by Micron.

(c) Provided Photronics timely acts as herein provided, Photronics shall have certain approval rights, not to be unreasonably withheld, conditioned or delayed, with respect to (i) the plans and specifications and drawings for the Core and Shell Work and Related Work, (ii) site work to be undertaken upon the Land, (iii) title encumbrances and defects affecting title to the Land, the location of the Land within Boise, Idaho, and availability of reasonably adequate water rights to the Land if the Land is not owned by Micron or any Affiliate as of the date of this Lease or the availability of city water if the Land is owned by Micron or an Affiliate as of the date of this Lease, (iv) the square footage of the Land parcel, (v) the selection of the Land parcel solely to the extent that the parcel designated by Micron either (1) poses environmental risk, liability or hazards (as evidenced in a baseline environmental report of the Land if the parcel is not currently owned by Micron or an Affiliate or in any existing environmental reports of the Land if the parcel is owned as of the date of this Lease by Micron or an Affiliate) or (2) cannot be used for the Permitted Use under applicable zoning laws, (vi) location of the Building upon the Land, and (vii) any Permitted Development Easements. [\*\*\*\*].

(d) Within five (5) days of the date of Substantial Completion for Photronics' Installation, but in any event upon not less than two (2) Business Days' prior written notice to Photronics, Micron's and Photronics' designated representatives shall conduct a walk-through of the Premises and compile a so-called punch list of Micron's Work items included within the Core and Shell Work and Related Work to be completed for Substantial Completion of Photronics' Installation to be completed, corrected, removed or replaced. Micron shall cause its contractor to complete, correct or remove and replace all such punch-list items as promptly as practicable following the compilation and initialing of the punch-list. By commencing its on-site Photronics' Work, Photronics shall be deemed to have agreed that Micron fully completed and satisfactorily performed Micron's Work to be performed for Substantial Completion for Photronics' Installations.

(e) Within five (5) days of the date of Substantial Completion for Rent Commencement, but in any event upon not less than two (2) Business Days' prior written notice to Photronics, Micron's and Photronics' designated representatives shall conduct another walk-through of the Premises and compile a second punch-list of Micron's Work items included

within the Core and Shell Work and Related Work to be completed for Substantial Completion for Rent Commencement to be completed, corrected, removed or replaced. Micron shall cause its contractor to complete, correct or remove and replace all such punch-list items (unless the need therefore resulted from the acts of Photronics or any Photronics' Parties) as promptly as possible following the compilation and initialing of the punch-list. By commencing operations upon the Premises (which shall be deemed to have occurred upon Qualification of the Mask Shop Equipment), Photronics shall be deemed to have agreed that Micron fully completed and satisfactorily performed all of Micron's Work.

Section 16.3      Photronics' Work  
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(a) Photronics shall commence and diligently prosecute Photronics' Work in accordance with the Timeline. [\*\*\*\*].

(b) [\*\*\*\*]. The Mask Shop Equipment and all other non-leasehold improvements to the Premises made by or on behalf of Photronics are herein referred to as the "Photronics' Improvements".

(c) Within sixty (60) days following execution of this Lease, and in any event prior to and as a condition to Photronics' commencement of any on-site Photronics' Work, the Parties (and, if applicable, the Company) shall enter into a Photronics' Work Support Agreement (herein so called) pursuant to which Micron (and, if applicable, the Company), for a fee to be paid by Photronics, shall oversee, and advise with respect to, the installation of the Mask Shop Equipment. Costs and fees charged by Micron under the Photronics' Work Support Agreement shall be commercially reasonable. Upon execution, such Photronics' Work Support Agreement shall constitute an additional Transaction Document.

Section 16.4      Warranties and Guaranties  
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(a) Micron shall, as a part of the construction contract for Micron's Work, use commercially reasonable efforts to obtain [\*\*\*\*] warranty as to materials (or as otherwise warranted by the manufacturer) and labor from Micron's general contractor. Micron shall also use commercially reasonable efforts to obtain such warranties and guaranties as shall be customary from all subcontractors, materialmen and equipment suppliers involved in the performance of Micron's Work. Upon the expiration of the period set forth in Section 8.1(b), Micron shall assign to Photronics Micron's rights under all such warranties and guaranties to the extent both permitted thereunder and may be assigned without cost to Micron. Such assignment shall be without recourse to Micron.

(b) Photronics shall obtain warranties for all Mask Shop Equipment in accordance with standard industry practice. Photronics shall use commercially reasonable efforts to have such warranties assignable to Micron.

ARTICLE XVII.  
MISCELLANEOUS

Section 17.1     Offset Statement  
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(a) Within twenty (20) days following a request in writing by Micron, Photronics shall execute and deliver to Micron a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the monthly Base Rent and other charges are paid in advance, if any, (ii) acknowledging that there are not, to Photronics' knowledge, any uncured defaults on Micron's part hereunder, or specifying such defaults if any are claimed and (iii) acknowledging (if true) the accuracy of such other facts as are reasonably included in such statement and relate to this Lease. Any such statement may be relied upon by any prospective purchaser, transferee or encumbrancer of the Premises, this Lease or any interest herein.

(b) Failure of Photronics to deliver such statement within such time shall be conclusive upon Photronics (i) that this Lease is in full force and effect, without modification, except as may be represented by Micron, (ii) that there are no uncured defaults in Micron's performance, (iii) that no more than one quarter's Base Rent has been paid in advance and (iv) that any other statements of fact included by Micron in the statement and relating to this Lease are correct.

(c) Notwithstanding anything to the contrary in Article XIV, any failure of Photronics to execute and deliver an estoppel certificate within the time period herein specified shall be a Default hereunder if not cured within five (5) days after Micron's written notice to Photronics.

Section 17.2     Micron's Right of Access  
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(a) Micron and its agents shall have free access to the Premises and all leasehold improvements thereon during all reasonable business hours, and at any time during an emergency, for the purpose of examining the same to ascertain if they are in good repair, making reasonable repairs or installations which Micron may be required or permitted to make hereunder, posting notices which Micron may deem necessary for its protection and exhibiting the same to prospective purchasers or tenants (at any time after Micron shall have the right to terminate this Lease) and to access Photronics' books and records as it shall have the right to review pursuant to the Transaction Documents; provided, that Micron's access shall not, under the circumstances, unreasonably interfere with Photronics' use and enjoyment of the Premises. Any entry by Micron pursuant to this Section 17.2 shall be without rebate of rent to Photronics. After the Qual Period End Date, the aforesaid entry, except in the case of emergency, shall be upon reasonable advance notice.

(b) Nothing contained herein shall constitute an actual or constructive eviction or relieve Photronics of any obligation with respect to making any repair, replacement or improvement or complying with any law, order or requirement of any government or

other authority. Nothing contained herein shall impose upon Micron any obligation to Photronics except as specifically provided in this Lease.

Section 17.3      Transfer of Micron's Interest  
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In the event of any transfer or transfers of Micron's interest in the Premises other than a transfer for security purposes only, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Micron accruing from and after the date of such transfer, provided the transferee in writing agrees to assume such obligations accruing from and after the effective date of the transfer; provided, however, in the event that the effective date of any such transfer is prior to the date of Substantial Completion for Rent Commencement, Micron shall not be relieved of its obligation for completion of Micron's Work (which obligation Micron can have fulfilled in any commercially reasonable manner Micron elects), inclusive of Micron's warranty obligations under Section 8.1(b). No holder of a mortgage or deed of trust to which this Lease is or may be subordinate, and no landlord under a so-called sale leaseback, shall be responsible in connection with any security deposited, or in connection with any other funds paid by Photronics hereunder, unless such mortgagee, holder of a deed of trust or landlord shall actually receive such funds. The covenants contained in this Lease on the part of Micron shall, subject to the foregoing, be binding on Micron, its successors and assigns, only in respect of their respective periods of ownership of the landlord's interest in this Lease.

Section 17.4      Separability  
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If any provision in this Lease will be found or be held to be invalid or unenforceable, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Lease which will remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by any Party. In such event, the Parties will use their respective best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the Parties' intent in entering into this Lease.

Section 17.5      Interest on Past Due Obligations  
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(a) Any amount due by Photronics hereunder that is not paid within five (5) days after the date due shall bear interest at the Default Rate, accruing from the date due until the same is fully paid. Payment of such interest shall not excuse or cure any default by Photronics pursuant to this Lease. The Default Rate shall remain in effect after the occurrence of any breach or default hereunder by Photronics to and until payment of the entire amount due.

(b) PHOTRONICS ACKNOWLEDGES THAT THE LATE PAYMENT BY PHOTRONICS TO MICRON OF RENT AND OTHER SUMS DUE HEREUNDER AND THE FAILURE TO DELIVER CERTAIN ITEMS REQUIRED TO BE DELIVERED HEREUNDER WILL CAUSE MICRON TO INCUR COSTS NOT CONTEMPLATED BY THIS LEASE, THE EXACT AMOUNT OF WHICH WILL BE EXTREMELY DIFFICULT TO ASCERTAIN. SUCH COSTS MAY INCLUDE, BUT ARE NOT LIMITED TO, ADMINISTRATIVE,

PROCESSING AND ACCOUNTING CHARGES, AND LATE CHARGES WHICH MAY BE IMPOSED ON MICRON BY THE TERMS OF ANY ENCUMBRANCE COVERING THE PREMISES. [\*\*\*\*]. THE PARTIES AGREE THAT SUCH LATE CHARGE REPRESENTS A FAIR AND REASONABLE ESTIMATE OF THE COST MICRON WILL INCUR BY REASON OF LATE PAYMENT OR LATE DELIVERY BY PHOTRONICS. ACCEPTANCE OF SUCH LATE CHARGE SHALL NOT CONSTITUTE A WAIVER OF PHOTRONICS' DEFAULT WITH RESPECT TO SUCH OVERDUE AMOUNT OR OTHER ITEM, NOR PREVENT MICRON FROM EXERCISING ANY OTHER RIGHTS AND REMEDIES GRANTED HEREUNDER OR BY LAW TO MICRON, INCLUDING, WITHOUT LIMITATION, TERMINATION OF THIS LEASE.

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Micron's Initials

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Photronics' Initials

Section 17.6 Time of Essence  
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Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

Section 17.7 Construction; Interpretation  
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(a) Certain Terms. The words "hereof," "herein," "hereto," "hereunder" and similar words refer to this Lease as a whole and not to any particular provision of this Lease. The term "including" is not limited and means "including without limitation."

(b) Section References; Title and Subtitles. Unless otherwise noted, all references to Sections and Exhibits herein are to Sections and Exhibits of this Lease. The titles, captions and headings of this Lease are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Lease.

(c) Reference to Persons, Leases, Statutes. Unless otherwise expressly provided herein, (i) references to a person or entity include its successors and permitted assigns, (ii) references to agreements (including this Lease) and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto or supplements thereof and (iii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

(d) Presumptions. No Party, nor its counsel, shall be deemed the drafter of this Lease for purposes of construing the provisions of this Lease, and all provisions of this Lease shall be construed in accordance with their fair meaning, and not strictly for or against any Party.

(e) The use of the masculine pronoun includes the feminine and neuter genders; the use of the singular form of a pronoun includes the plural and vice-versa.



(f) If there be more than one person or entity indicated as tenant herein, each person or entity subscribing as a tenant shall be jointly and severally liable for all obligations of the tenant hereunder. Except as otherwise expressly provided in this Lease, including, without limitation, pursuant to a Permitted Photronics Change in Control, Photronics may not assign, delegate or otherwise transfer any of its rights or obligations hereunder to any third party, whether by assignment, transfer, Change in Control (as defined in the Company Operating Agreement), or other means, without the prior written consent of Micron. Any attempted assignment in violation of the foregoing shall be null and void. Subject to the foregoing, this Lease shall be binding on and inure to the benefit of the Parties, their heirs, executors, administrators, and successors.

(g) Any provision of this Lease which provides for the survival thereof (or of any portion thereof) beyond the expiration of the term or any termination of the Lease is hereby also deemed to survive any conveyance of fee title to the Premises.

Section 17.8 Incorporation of Prior Agreements; Amendments  
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This Lease, together with the Transaction Documents and the exhibits and schedules referred to herein and therein, constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and supersede any and all prior oral and written, and all contemporaneous oral, agreements or understandings pertaining thereto. There are no agreements, understandings, restrictions, warranties or representations relating to such subject matter among the Parties other than those set forth herein and in the other documents, exhibits and schedules referred to herein and therein. Each Party acknowledges that the other Party has made no representations, promises or guarantees, either by verbal statement or by its conduct, upon which the acknowledging Party has relied with respect to the subject matter of this Lease except for those that are expressly contained in this Lease or in any exhibit attached hereto. No person, firm or corporation has at any time had any authority from Micron to make any representations on behalf of Micron and Photronics waives any right to rely upon any such representations. No verbal agreement or implied covenant shall be held to vary the provisions hereof, any statute, law or custom to the contrary notwithstanding. This Lease may not be amended without the prior written consent of each Party hereto and shall only be amended by a written lease amendment executed by the Parties. No employee or agent of either Party shall have authority, by letter, memorandum or other written communication, to amend, vary or delete any provision of this Lease.

Section 17.9 Notices  
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Unless otherwise provided herein, all notices, requests, instructions or consents required or permitted under this Lease shall be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile; (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) three (3) business days after deposit with an internationally recognized commercial overnight carrier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses listed on Exhibit "A" of the Company Operating Agreement (or to such

other address or facsimile number as may be designated by a Party giving written notice to the other Parties pursuant to this Section 17.9).

Section 17.10 Brokers  
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Photronics and Micron each represent and warrant to the other that they have had no dealings with any real estate brokers or agents in connection with the negotiation of this Lease and that no broker or agent retained by them is entitled to a fee or commission in connection with the execution of this Lease. Each Party hereby expressly agrees and covenants to defend, indemnify and hold the other harmless from and against any and all claims, threatened or asserted, by any broker, finder or agent claiming under or through such indemnifying Party in connection with the negotiation and execution of this Lease. Such defense, indemnification and hold harmless obligation shall extend to but not be limited to any and all claims by any broker or leasing agent employed or retained by an indemnifying Party in connection with leasing matters generally. Failure of either Party to fulfill its defense and indemnification obligation under this Section 17.10 shall be deemed a breach of this Lease entitling the other to exercise all remedies available to a landlord against a defaulting tenant or to a tenant against a defaulting landlord, as the case may be, including, but not limited to the remedies provided in Article XIV. Micron and Photronics acknowledge that payment shall not be a condition precedent to recovery upon the foregoing indemnification provision.

Section 17.11 Waivers  
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Any provision of this Lease may be waived if, and only if, such waiver is in writing and is duly executed by the Party against whom the waiver is to be enforced. No failure or delay by any Party in exercising any right, power or privilege under this Lease shall operate as a waiver thereof nor shall any single or partial waiver or exercise thereof preclude the enforcement of any other right, power or privilege. No act or thing done by Micron or Micron's agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, unless done in a writing signed by Micron. Photronics' delivery of keys to any employee or agent of Micron shall not operate as a termination of this Lease or a surrender of the Premises unless done pursuant to a written agreement to such effect executed by Micron.

Section 17.12 Liens  
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Photronics shall do all things necessary to prevent the filing of any mechanics' or other liens against the Premises or any part thereof by reason of work, labor, services or materials supplied or claimed to have been supplied to Photronics, or anyone holding the Premises, or any part thereof, through or under Photronics. If any such lien shall at any time be filed against the Premises, Photronics shall either cause the same to be discharged of record within twenty (20) days after the date of filing of the same or, subject to Micron's prior written consent thereto, if Photronics determines in good faith that such lien is indefensible by such lien claimant, shall furnish such security as shall be acceptable to Micron in its sole discretion (including as to amount and surety among other considerations) and may be required to prevent any foreclosure proceedings against the Premises or any portion thereof or interest therein during the pendency of such contest. If Photronics shall fail to discharge such lien within such period

and fail to furnish such security within such period, then, in addition to any other right or remedy of Micron resulting from the default of Photronics, Micron may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by giving security or in such other manner as is, or may be, prescribed by law. Photronics shall repay to Micron, on demand, all sums disbursed or deposited by Micron pursuant to the foregoing provisions of this Section 17.12, including Micron's costs, expenses and reasonable attorneys' fees incurred in connection therewith, with interest thereon from the date of such disbursement or deposit to the date of repayment at the Default Rate. Nothing contained herein shall imply any consent or agreement on the part of Micron to subject Micron's estate to liability under any mechanics' or other lien law.

Section 17.13    Subordination  
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This Lease shall, at Micron's option, be subordinate to any mortgage or deed of trust that may exist or hereafter be placed upon the Premises or any part thereof and to any and all advances to be made thereunder and to the interest thereon and to all renewals, replacements and extensions thereof executed with respect to the Premises. If, however, a prospective lender requires that this Lease be subordinated to any such ground lease or encumbrance, this Lease shall automatically be subordinate to such encumbrance; provided, however, that as a condition to the subordination of this Lease to any such prospective lender, Micron shall obtain execution of a subordination, nondisturbance and attornment agreement (an "SNDA") in form and substance reasonably satisfactory to Micron, Photronics and such lender; provided, however, it shall, at a minimum, contain a recognition of Photronics' purchase rights set forth herein with respect to the Premises as well as the prospective mortgagee's covenant to release its mortgage, as applicable, of record upon satisfaction of the conditions in this Lease for conveyance of the Premises to Photronics. Photronics shall, within ten (10) days after request by Micron from time to time execute, acknowledge and deliver an SNDA in favor of any mortgagee of the Premises or any portion thereof or interest therein. Photronics shall upon written request by Micron (a) execute such instruments as may be required at any time and from time to time to evidence the existence of this Lease (e.g. a memorandum of lease) and to subordinate the rights and interest of Photronics under this Lease to the lien of any such mortgage or deed of trust, or if requested by Micron, to subordinate any such mortgage or deed of trust to this Lease, and (b) supply such financial information concerning Photronics as may be reasonably requested by any lender. Subject to Photronics' receipt of the agreements described above, Photronics covenants and agrees that, in the event any proceedings are brought for the foreclosure of any such mortgage or deed of trust, upon a deed in lieu thereof, to attorn, without any deductions or setoffs whatsoever, to the purchaser, lienholder, or any successors thereto upon any such foreclosure sale or deed in lieu thereof, if requested to do so by such purchaser or lienholder, and to recognize such purchaser or lienholder as the landlord under this lease, provided such lienholder or purchaser shall agree to accept this Lease and not disturb Photronics' tenancy so long as Photronics timely pays the rent and observes and performs the terms, covenants and conditions of this Lease to be observed or performed by Photronics. Micron's interest herein may be assigned at any time as security to any lienholder. Photronics waives the provisions of any current or future Applicable Law which may give or purport to give Photronics any right or

election to terminate or otherwise adversely affect this Lease and the obligations of Photronics hereunder in the event of any foreclosure sale, foreclosure proceeding or deed in lieu.

Section 17.14 Force Majeure  
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Neither Party shall be deemed in default if its performance or obligations hereunder are delayed or become impossible or impractical due to causes beyond its reasonable control, including acts of God, war, fire, earthquake, and acts of civil or military authority. The time for performance of any such obligation shall be extended for the time period lost by reason of the delay. For the purpose of this Section 17.14:

(a) A cause shall be beyond the reasonable control of a Party to this Lease when such cause would affect any person similarly situated (such as a power outage, labor strike or truckers' strike) but shall not be beyond the reasonable control of such Party when peculiar to such Party (such as financial inability or [\*\*\*\*]).

(b) This Section 17.14 shall not apply to any obligation to pay money or delay the Rent Commencement Date.

(c) In the event of any occurrence which a Party believes constitutes a cause beyond the reasonable control of such Party and which will delay any performance by such Party hereunder, such Party shall promptly in writing notify the other Party of the occurrence and nature of such cause, the anticipated period of delay and the steps being taken by such Party to mitigate the effects of such delay.

Section 17.15 Yield Up Premises; Quitclaim  
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(a) At any termination of this Lease, Photronics shall peaceably yield up the Premises and all leasehold improvements thereto to Micron (except as otherwise specifically provided in this Lease), in its original condition, reasonable wear and tear and damage from casualty excepted. Without limiting the generality of the foregoing, upon delivery of the Premises to Micron, the roof of the Building shall be watertight, all mechanical, electrical, plumbing and irrigation systems on the Premises and the Mask Shop Equipment shall be in good operating condition, all landscaping shall be in good condition and the parking lots shall be striped, free of potholes and with good surface conditions.

(b) Whenever Micron shall re-enter the Premises as provided in Article XIV, or as otherwise provided in this Lease, any property of Photronics not removed by Photronics within the time periods provided by Section 17.20 shall be considered abandoned and Micron may remove any or all of such items and dispose of the same as it determines in its sole discretion, at Photronics' sole cost and expense. Photronics waives all claims for damages caused by Micron's re-entering and taking possession of the Premises or removing and storing or disposing of the property of Photronics as provided herein, and no such entry shall be considered a forcible entry.

Section 17.16 Survival of Indemnities  
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The obligations of Photronics under each and every indemnification and hold harmless provision contained in this Lease shall survive the expiration or earlier termination of this Lease (and any conveyance of fee title to the Premises) to and until the last to occur of (a) the last date permitted by law for the bringing of any claim or action with respect to which indemnification may be claimed by Micron against Photronics under such provision or (b) the date on which any claim or action for which indemnification may be claimed under such provision is fully and finally resolved and, if applicable, any compromise thereof or judgment or award thereon is paid in full by Photronics and Micron is reimbursed by Photronics for any amounts paid by Micron in compromise thereof or upon a judgment or award thereon and in defense of such action or claim, including reasonable attorneys' fees incurred. Payment shall not be a condition precedent to recovery upon any indemnification provision contained herein.

Section 17.17 Security Deposit  
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There shall be no security deposit pursuant to this Lease.

Section 17.18 No Option  
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Submission of this Lease to Photronics shall not be deemed to be an offer or option for Photronics to lease the Premises. Micron shall not be bound hereby until Micron's delivery to Photronics of an executed copy hereof and of all Transaction Documents signed by Micron, already having been signed by Photronics.

Section 17.19 Micron Liability  
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In the event of an actual or alleged failure, breach or default hereunder by Micron, Photronics' sole and exclusive remedy shall be against Micron's interest in the Premises, and Micron, its directors, officers, employees and any partner of Micron will not be sued, be subject to service of process, or have a judgment obtained against it or them in connection with any alleged breach or default, and no writ of execution will be levied against any other assets of Micron or any assets of any shareholder, officer or partner of Micron. The covenants and agreements of this provision are enforceable by Micron and also by any shareholder, officer or partner of Micron. If Photronics may seek or claim damages against Micron (whether by reason of breach of this Lease or otherwise), Photronics shall not seek, nor shall there be awarded or granted by any court, arbitrator, or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. The Parties intend that any damages awarded to Photronics shall be limited to actual, direct damages sustained by Photronics. Micron shall not be liable for any loss of profits suffered or claimed to have been suffered by Photronics. In the event of any termination of this Lease by Micron prior to the Rent Commencement Date in breach of this Lease, Micron shall have a good faith duty, at no cost or expense to Micron therefor (through guaranty or other credit enhancement mechanisms or otherwise) to undertake to obtain an assignment to Photronics of the construction contract for Micron's Work if so requested by Photronics. Notwithstanding the restriction in the first sentence of this Section 17.19, if Micron

defaults in the completion of Micron's Work, Photronics shall not be restricted to seeking recovery for its damages permitted pursuant to this Lease to Micron's interest in the Premises.

Section 17.20 Termination  
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If this Lease is terminated under any provision hereof, the following shall pertain:

(a) Photronics shall, within a commercially reasonable period for particular items and types of personal property but no longer than [\*\*\*\*] days (at the maximum) after the termination date, remove from the Premises all personal property of Photronics (but specifically excluding all Photronics' Improvements inclusive of the Mask Shop Equipment to be retained by Micron pursuant to Section 14.2(a)(ii)) and Photronics' Signage, and shall surrender the Premises to Micron in the condition required by Section 17.15. For clarification, Photronics must remove personal property as quickly as commercially reasonably possible but shall have up to a maximum [\*\*\*\*] for any particular items which cannot commercially reasonably be removed in a shorter time frame. In the event that Micron requires the property to be relocated prior to the expiration of such [\*\*\*\*], it shall have the right to de-install the property and relocate it to a storage facility reasonably acceptable to Photronics at Micron's own expense. Storage facility charges shall be at Photronics' expense. Micron shall not be liable for any damage resulting from such relocation and storage. Photronics shall, at Photronics' cost, repair any damage to the Premises caused by such removal. Any items which Photronics is permitted to remove but fails to remove prior to the surrender of the Premises to Micron shall be deemed abandoned by Photronics, and Micron may retain or dispose of the same as Micron sees fit without claim by Photronics thereto or to any proceeds thereof. If Micron elects to remove and dispose of any such items abandoned by Photronics, the cost of such removal and disposal shall be additional rent payable by Photronics to Micron upon demand. Photronics shall pay reasonable warehouse charges through the last day of the calendar month in which the last of the property is removed and any costs charged pursuant to the immediately preceding sentence, each of the Parties shall bear their own costs and fees incurred (including all costs incurred in performing their respective obligations hereunder) through the termination date and from and after the termination date (or expiration date, as applicable) neither Party shall have any further obligations to the other, except for those obligations set forth in this subsection, in any other Section of this Lease which specifically provides that obligations provided for therein survive termination, and in subsection (b) below.

(b) Notwithstanding the provisions of subsection (a), upon any such termination and upon expiration of the Lease term, the following shall pertain:

(i) Photronics agrees to defend, indemnify and hold harmless Micron from and against any and all claims, costs, losses, expenses, damages, actions and causes of action for which Photronics is responsible under this Lease and which accrue on or before the termination date.

(ii) Photronics shall remain liable for the cost of all utilities used in or at the Premises through the termination date accrued and unpaid and billed directly to Photronics, whether or not then billed, as of the termination date until full payment thereof by

Photronics. Photronics shall obtain directly from the companies providing such services closing statements for all services rendered through the termination date and shall promptly pay the same. If any utility statement with respect to the Premises includes charges for a period partially prior to and partially subsequent to the termination date, such charges shall be prorated as between Micron and Photronics, with Photronics responsible for the portion thereof (based upon a fraction the numerator of which is the number of days of service on such statement through the termination date and the denominator of which is the total number of days of service on such statement) through the termination date and Micron shall be responsible for the balance. The Party receiving any such statement which requires proration hereunder shall promptly pay such statement and the other Party shall, within ten (10) days after receipt of a copy of such statement, remit to the Party paying the statement any amount for which such other Party is responsible hereunder.

(iii) Photronics shall remain responsible for any taxes of the type described in Sections 6.1 and 6.3 and assessed against the Premises and the personal property located therein or thereon with a lien date prior to the expiration or termination date, irrespective of the date of the billing therefor, and shall indemnify and hold Micron harmless with respect to any claims for such taxes or resulting from non-payment thereof.

Section 17.21    Accord and Satisfaction  
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(a) The receipt, retention, cashing, depositing or endorsement by Micron of any check, draft or other instrument of payment delivered by Photronics or any proposed assignee of or successor to Photronics shall not be deemed to be an acceptance by Micron of any attempted alteration, assignment or notation written on said instrument by the maker thereof.

(b) No payment by Photronics or receipt by Micron of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the earliest accruing rent, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment be deemed an accord and satisfaction. Micron may accept such check or payment without prejudice to Micron's right to recover the balance of such rent or pursue any other remedy provided for in this Lease or available at law or in equity.

(c) All amounts payable by either Party hereunder to the other shall be paid in lawful money of the United States to the Party entitled to receive the same at its address referred to in Section 17.9 or at such other address as a Party may designate by notice to the other pursuant to this Article XVII. All amounts to be paid by Photronics shall be paid without deduction or offset.

Section 17.22    Counterparts  
-----

This Lease may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. Execution and delivery of this Lease by exchange of facsimile copies bearing the facsimile signature of a Party shall constitute a valid and binding execution and delivery of this Lease by such Party.

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

Section 17.23 Building Security  
-----

(a) Photronics acknowledges that the rent payable by Photronics hereunder does not include the cost of guard service or other security measures, and that Micron shall have no obligation whatsoever to provide the same. Photronics assumes all responsibility for the protection of Photronics, its employees, agents and invitees from acts of third parties.

(b) Photronics shall be entitled, as a Development Cost, to install, maintain and use a commercially reasonable, high quality and reliable security system in the Building. In connection with such security system (the "Security System"), the following shall pertain:

(i) The Security System shall be subject to the prior written approval of Micron, not to be unreasonably withheld, conditioned or delayed.

(ii) Photronics shall be solely responsible to obtain all governmental approvals and permits required with respect to the Security System. Installation of the Security System shall be in accordance with the plans therefor approved by Micron, not to be unreasonably withheld, conditioned or delayed, and all required governmental approvals and permits.

(iii) Photronics shall be solely responsible to maintain, repair and replace the Security System.

Section 17.24 Publicity  
-----

Each of Micron and Photronics shall consult with the other Party prior to issuing any press release, public statement or other publicity concerning the transactions provided for in this Lease. Neither Micron nor Photronics shall issue any press release, public statement or other publicity with respect to the transactions provided for in this Lease without the prior written approval of the other Party, both as to the issuance of such publicity and the form and content thereof. No such publicity release shall disclose the economic terms of the transactions provided for in this Lease. Subject to the immediately preceding sentence, any such required approval shall not be unreasonably withheld, delayed or conditioned by either Party hereto.

Section 17.25 Governing Law  
-----

This Lease will be governed by and construed in accordance with the laws of the State of Idaho, United States of America, as applied to agreements among Idaho residents entered into and wholly to be performed within the State of Idaho (without reference to any choice or conflicts of laws rules or principles that would require the application of the laws of any other jurisdiction).

Section 17.26 Rights and Remedies Cumulative  
-----

Except for the specific limitation set forth in Section 14.2(a)(ii) with respect to Micron and as otherwise provided in this Lease with respect to Photronics, (a) the rights and



remedies provided by this Lease are cumulative and the use of any one right or remedy by any Party shall not preclude or waive its right to use any or all other remedies, and (b) said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance or otherwise.

Section 17.27    Dispute Resolution  
-----

The Parties hereby agree that claims, disputes or controversies of whatever nature, arising out of, in connection with, or in relation to the interpretation, performance or breach of this Lease (or any other agreement contemplated by or related to this Lease), shall be resolved in accordance with the dispute resolution procedures set forth in the Company Operating Agreement.

Section 17.28    Third-Party Beneficiaries  
-----

This Lease is not intended to confer any rights or remedies upon, and shall not be enforceable by, any person or entity other than the Parties hereto, their respective successors and permitted assigns.

Section 17.29    No Recording  
-----

This Lease shall not be recorded in any public records. A Memorandum of Lease in form and substance as set forth on Exhibit "H" hereto shall be executed by the Parties and may be recorded by either Party at its sole expense following the last to occur of (a) execution of this Lease by both Parties, and (b) determination of the Land. In the event this Lease is cancelled, terminated or otherwise ends other than by conveyance of the improved Land by Special Warranty Deed attached as Exhibit "C" hereto from Micron to Photronics, upon five days' prior request by Micron, the Parties shall execute (and Micron shall record at its expense) the Memorandum of Cancellation of Lease in form and substance set forth on Exhibit "I" hereto.

Section 17.30    Quiet Enjoyment  
-----

Subject to the terms and provisions of this Lease and the Permitted Exceptions (and including without limitation acquisition of the Land and the performance of Micron Work upon the Premises), and so long as no Default shall have occurred and be continuing, Photronics shall peaceably and quietly hold and enjoy the Premises for the term free of any claim or other action by Micron or anyone rightfully claiming by, through or under Micron (other than Photronics).

[No further text on this page.]

IN WITNESS WHEREOF the Parties hereto have executed this Build to Suit Lease as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Micron:

MICRON TECHNOLOGY, INC., a  
Delaware orporation

By:

-----  
Name (parent):

-----  
Title:

Photronics:

PHOTRONICS, INC., a Connecticut  
corporation

By:

-----  
Name (parent):

-----  
Title:

[Signature Page to Build to Suit Lease]

LANDLORD ACKNOWLEDGMENT

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)ss:

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such officer of said entity being authorized so to do, (s)he executed the foregoing instrument on behalf of said entity, by subscribing the name of such entity by himself/herself as such officer, as a free and voluntary act, and as the free and voluntary act and deed of said entity under the foregoing instrument for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

-----  
Notary Public

My Commission Expires: \_\_\_\_\_

PHOTRONICS ACKNOWLEDGMENT

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)ss:

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such officer of said entity being authorized so to do, (s)he executed the foregoing instrument on behalf of said entity, by subscribing the name of such entity by himself/herself as such officer, as a free and voluntary act, and as the free and voluntary act and deed of said entity under the foregoing instrument for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

-----  
Notary Public

My Commission Expires: \_\_\_\_\_

[Acknowledgement Page to Build to Suit Lease]

EXHIBIT A  
PLOT PLAN OF LAND

A-1

EXHIBIT B  
LEGAL DESCRIPTION OF LAND

B-1

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

C-1

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

When recorded, return to:

- - - - -  
- - - - -  
- - - - -

Attn:

- - - - -

- - - - -  
Space above for recorder's use

SPECIAL WARRANTY DEED  
- - - - -

THIS INDENTURE, made as of this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, between Micron Technology, Inc., a Delaware corporation ("Grantor"), whose principal office is located at \_\_\_\_\_, and Photronics, Inc., a Connecticut corporation ("Grantee"), whose principal office is located at \_\_\_\_\_, by these presents does hereby GRANT, BARGAIN, SELL AND CONVEY unto the Grantee, and to its successors and assigns, FOREVER, that certain property located in the City of Boise, County of Ada, State of Idaho, and more particularly described on Exhibit "A" attached hereto and incorporated by reference herein, together with all the improvements thereon (the "Property") [, reserving in the Grantor all oil, gas, hydrocarbons, mineral and water rights appurtenant to the Property and the attendant right and easement to access the Property and extract such as oil, gas, hydrocarbon, minerals and water provided that Grantor shall exercise such rights in accordance with Section 3.2 of the Build to Suit Lease between Micron Technology, Inc. and Photronics, Inc. dated May 5, 2006].(1)

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the Grantor, either in law or in equity, of, in and to the Property, with the hereditaments and appurtenances including without limitation and subject to those items set forth on Exhibit "B" attached hereto and made a part hereof.

- - - - -

(1) Note: Bracketed language will only be included if the Land is land owned by Micron or an affiliate as of the date of the Build to Suit lease.

This grant is further subject to certain rights of first refusal of Grantor and affiliates of Grantor to purchase the Property upon the terms and conditions therefor set forth in that certain Build to Suit Lease by and between Micron Technology, Inc., as landlord, and Photronics, Inc., as tenant, dated as of May 5, 2006 [ , a Memorandum of Lease pertaining thereto having been recorded in Volume \_\_, Page \_\_ of the \_\_\_\_\_ Office of Ada County, Idaho on \_\_\_\_\_, 200\_,] as such Build to Suit Lease may be amended and/or amended and restated from time to time.

TO HAVE AND TO HOLD the said premises as above described, with the appurtenances, unto the Grantee, its heirs and assigns forever.

And the Grantor, for itself, and its successors, does covenant, promise and agree, to and with the Grantee, its heirs and assigns, that it has not done or suffered to be done, anything whereby the said Property hereby granted is, or may be, in any manner encumbered or charged, except as herein recited; and that the said Property, against all persons lawfully claiming, or to claim the same, by, through or under it, it WILL WARRANT AND FOREVER DEFEND.

[SIGNATURE ON FOLLOWING PAGE]

C-3

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



In Witness Whereof, the Grantor has executed this instrument and caused its corporate name and seal to be hereunto affixed by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Micron Technology, Inc.,  
a Delaware corporation

By: \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title (Print): \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss

On the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me the above \_\_\_\_\_, the \_\_\_\_\_ of Micron Technology, Inc., a Delaware corporation, who, being by me duly sworn did say, for him/herself, that the within instrument was signed by him/her on behalf of said corporation by authority of its board of directors.

[Seal] \_\_\_\_\_  
Notary Public Commission expires:  
\_\_\_\_\_

C-4

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

EXHIBIT A

Legal Description

[\*\*\*\*]

C-5

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

EXHIBIT B

Permitted Exceptions

[\*\*\*\*]

C-6

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

EXHIBIT D-1

FORM OF LEASE PAYMENT SCHEDULE

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[\*\*\*\*]

D-1-1

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

EXHIBIT D-2

SAMPLE LEASE PAYMENT SCHEDULE (FOR ILLUSTRATIVE PURPOSES ONLY)

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[\*\*\*\*]

D-2-1

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



EXHIBIT F  
RESERVED

F-1

EXHIBIT G

CORE AND SHELL WORK AND RELATED WORK  
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[\*\*\*\*]

G-1

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



EXHIBIT H  
FORM OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

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-----  
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Attn: -----

-----  
(Space Above for Recorder's Use)

MEMORANDUM OF LEASE(2)  
-----

MICRON TECHNOLOGY, INC., a Delaware corporation ("Micron"),  
hereby leases to PHOTRONICS, INC., a Connecticut corporation ("Photronics"),  
that certain real property located in the City of Boise, Idaho and more  
particularly described on Exhibit "A" attached hereto (the "Premises").

1. The rent payable by Photronics and the other terms of the  
tenancy including conveyance of fee title to the premises upon expiration of the  
Lease term subject to satisfaction of specified conditions are set forth in a  
certain unrecorded lease instrument between Micron and Photronics dated as of  
May 5, 2006 (the "Lease"), the provisions of which Lease are incorporated herein  
by this reference, and covering the Premises. The term of the Lease shall be

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(2) Subject to modification for any state specific requirements for recording  
such as property tax id numbers and proper acknowledgment block.

for a period of five (5) full lease years, commencing as provided in the Lease, unless sooner terminated as provided therein.

3. This instrument is executed solely for recording purposes and nothing herein shall be deemed or construed to modify or vary the terms of the Lease.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Lease as of the \_\_\_\_ day of \_\_\_\_\_, 2006.

PHOTRONICS, INC, a Connecticut corporation

MICRON TECHNOLOGY, INC., a Delaware corporation

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

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

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

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

"Photronics"

"Micron"

STATE OF \_\_\_\_\_

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

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me OR proved to  
me on the basis of satisfactory evidence to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that they executed  
the same in their authorized capacities, and that by their signatures on the  
instrument the persons, or the entity upon behalf of which the persons acted,  
executed the instrument.

WITNESS my hand and official seal.

-----  
Signature of Notary

STATE OF \_\_\_\_\_

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

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me OR proved to  
me on the basis of satisfactory evidence to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that they executed  
the same in their authorized capacities, and that by their signatures on the  
instrument the persons, or the entity upon behalf of which the persons acted,  
executed the instrument.

WITNESS my hand and official seal.

-----  
Signature of Notary

EXHIBIT I

FORM OF MEMORANDUM OF CANCELLATION OF LEASE

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

- - - - -  
- - - - -  
- - - - -  
- - - - -

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(Space Above for Recorder's Use)

MEMORANDUM OF CANCELLATION OF LEASE(3)

-----  
THIS MUTUAL CANCELLATION OF LEASE is made and entered into as of  
the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between MICRON  
TECHNOLOGY, INC., a Delaware corporation ("Micron"), and PHOTRONICS, INC., a  
Connecticut corporation ("Photronics"), with respect to the following:

RECITALS

-----  
A. Micron is the landlord and Photronics is the tenant under that  
certain unrecorded lease dated May 5, 2006. Such instrument and any and all  
prior amendments or supplements thereto are herein collectively referred to as  
the "Lease."

B. The Lease is evidenced by a certain short form memorandum of  
lease recorded on \_\_\_\_\_, 2006 as Instrument No. - \_\_\_\_\_ -  
\_\_\_\_\_ in the Office of the County Recorder of Ada County, Idaho.

C. The Lease describes certain real property located in the City  
of Boise, County of Ada, State of Idaho and more particularly described on  
Exhibit "A" attached hereto and incorporated herein by this reference (the  
"Premises").

- - - - -

(3) Subject to modification for any state specific requirements for recording  
such as property tax id numbers and proper acknowledgment.

D. Micron and Photronics mutually desire to cancel and terminate the Lease and all modifications, amendments and supplements thereof effective \_\_\_\_\_, which date shall be the date of cancellation and termination of the Lease irrespective of the date of the execution and recordation of this instrument.

NOW THEREFORE, for and in consideration of the Premises, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Micron and Photronics do hereby mutually cancel the Lease and all modifications, amendments and supplements thereof, and the leasehold created thereby, effective on \_\_\_\_\_.

PHOTRONICS, INC, a Connecticut corporation

MICRON TECHNOLOGY, INC., a Delaware corporation

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

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

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

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

"Photronics"

"Micron"

STATE OF \_\_\_\_\_

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

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me OR proved to  
me on the basis of satisfactory evidence to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that they executed  
the same in their authorized capacities, and that by their signatures on the  
instrument the persons, or the entity upon behalf of which the persons acted,  
executed the instrument.

WITNESS my hand and official seal.

-----  
Signature of Notary

STATE OF \_\_\_\_\_

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

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me OR proved to  
me on the basis of satisfactory evidence to be the persons whose names are  
subscribed to the within instrument and acknowledged to me that they executed  
the same in their authorized capacities, and that by their signatures on the  
instrument the persons, or the entity upon behalf of which the persons acted,  
executed the instrument.

WITNESS my hand and official seal.

-----  
Signature of Notary

## PHOTRONICS TO MICRON SUPPLY AGREEMENT

THIS PHOTRONICS TO MICRON SUPPLY AGREEMENT (together with the Schedules attached hereto, collectively this "Agreement") is made and entered into as of May 5, 2006 (the "Effective Date"), by and between MICRON TECHNOLOGY, INC., a Delaware corporation and its Affiliates (collectively "Micron"), and PHOTRONICS, INC., a Connecticut corporation ("Photronics"). Micron and Photronics are hereinafter collectively referred to as the "Parties" and individually as a "Party."

## RECITALS

WHEREAS, pursuant to the Limited Liability Company Operating Agreement of MP Mask Technology Center, LLC, of the same Effective Date herewith, by and between Micron and Photronics (the "Operating Agreement"), the Parties have formed MP Mask Technology Center, LLC (the "Company") for the purpose of developing, producing and manufacturing photomasks and prototypes for photomasks;

WHEREAS, the Parties have entered into a Technology License Agreement of the same Effective Date herewith, under which the necessary technology has been licensed to the Company and Photronics (as defined below) in order for such Parties to fulfill their obligations under this Agreement;

WHEREAS, the Company and Photronics have entered into a separate supply agreement of even Effective Date herewith, which details the terms under which Photronics will purchase Products manufactured by the Company; and

WHEREAS, the Parties desire to enter into this Agreement to establish the terms under which Micron shall purchase Products from Photronics;

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and other terms and conditions contained herein, the Parties hereby agree as follows:

## 1. DEFINITIONS; INTERPRETATION

For purposes of this Agreement, the definitions set forth in this Section 1 shall apply to the respective capitalized terms. All capitalized terms not defined herein shall have the meaning set forth in the Operating Agreement.

1.1 "Capacity" shall have the meaning set forth in Section 2.7.

1.2 "Capacity Commitment" shall have the meaning set forth in Section 2.7.

1.3 "Copy Critical" shall have the meaning set forth in the Technology License Agreement.

1.4 "Copy Exact" shall have the meaning set forth in the Technology License Agreement.

1.5 "Copy Exact Photronics Facility" shall have the meaning for a Photronics Facility that is Copy Exact, each as defined in the Technology License Agreement.

1.6 "Cost" shall have the meaning set forth in Schedule 5.1.

1.7 "Dead-on-Arrival" shall mean any Product that is discovered to contain a Material Defect within thirty (30) calendar days after receipt of shipment of the Product.

1.8 "Entity" means a corporation, partnership, limited liability company, unincorporated organization, business association, firm, joint venture or other legal entity.

1.9 "Fiscal Month" shall mean a fiscal month of Micron.

1.10 "Fiscal Quarter" shall mean a fiscal quarter of Micron.

1.11 "Fiscal Year" shall mean a fiscal year of Micron.

1.12 "Forecast" shall have the meaning set forth in Section 2.5.

1.13 "Intellectual Property Right" shall have the meaning set forth in the Technology License Agreement.

1.14 "Licensed Technology" shall have the meaning set forth in the

1.15 "Loading Failure Margin" shall have the meaning set forth in Section 2.4.

1.16 "Loading Percentage" shall mean [\*\*\*\*].

1.17 "Loading Requirement" shall mean [\*\*\*\*].

1.18 "Material Defect" shall mean any malfunction, error or other defect in a Product that constitutes a material nonconformity with the Specifications for such Product under conditions of normal and proper use.

1.19 "Maximum Capacity Commitment" shall have the meaning set forth in Section 2.7.

1.20 "Micron Supply Agreement" shall mean the Micron Direct Supply Agreement of the same Effective Date herewith, by and between Micron and the Company.

1.21 "New Photronics Facility" shall have the meaning set forth in the Technology License Agreement.

1.22 "New Photronics Facility Lease" shall mean the Build to Suit Lease of the same Effective Date herewith by and between Micron and Photronics relating to the New Photronics Facility.

1.23 "Next Quarter Forecast" shall have the meaning set forth in Section 2.5.

1.24 "Photronics Facility" shall mean (i) a facility that directly, or indirectly through one or more intermediaries, is at least ninety percent (90%) owned by Photronics unless otherwise agreed upon by Micron in writing on a case-by-case basis or (ii) [Photronics Semiconductor Mask Corporation (Taiwan) ("PSMC)], provided that Photronics' direct or



indirect ownership of PSMC at all times is greater than 50% and no company that makes or sells Competing Products owns any ownership interest in PSMC.

1.25 "Photronics Supply Agreement" shall mean the Supply Agreement of the same effective date herewith, by and among Photronics and the Company.

1.26 "Product" or "Products" means photomasks and photomask prototypes that are to be manufactured by the Company or Photronics in accordance with Micron's Specifications and requirements.

1.27 "Process Node" shall have the meaning set forth in the Technology License Agreement.

1.28 "Purchase Order" shall mean a written purchase order or blanket purchase order that is delivered to Photronics in accordance with Section 3.2.

1.29 "Qualified" shall have the meaning set forth in the Technology License Agreement.

1.30 "Qualified Product(s)" shall have the meaning set forth in Section 2.7.

1.31 "Specifications" shall mean the specifications provided by Micron to Photronics for each Product in accordance with Micron's photomask ordering procedures and node requirements.

1.32 "Technology License Agreement" shall mean the Technology License Agreement of the same effective date herewith, by and among Micron, Photronics and the Company.

1.33 "Warranty Period" shall have the meaning set forth in Section 6.1.

## 2. PURCHASES; MANUFACTURE AND SUPPLY; PRODUCT TRANSITION; FORECASTS

2.1 Micron Purchases. Micron shall purchase Products from Photronics in accordance with the terms and conditions of this Agreement. [\*\*\*\*].

2.2 Photronics Manufacture and Supply of Product. Photronics shall accept Purchase Orders from Micron for Product and shall either manufacture Product at a Micron Qualified Photronics Facility or subcontract the manufacture of such Product to the Company pursuant to the terms of the Photronics Supply Agreement. [\*\*\*\*].

2.3 Photronics Manufacturing Approach. [\*\*\*\*].

2.4 Loading Requirement. Photronics shall maintain the Loading Requirement at all times during the Term, as measured on the basis of orders or releases thereto, as applicable, placed each Fiscal Month, so as to ensure the most efficient and cost effective utilization of the Company.

2.5 Forecasts. [\*\*\*\*].

2.6 Micron Purchase Commitment. [\*\*\*\*].

2.7 [\*\*\*\*].

### 3. PURCHASE ORDERS

3.1 Purchase Orders. Micron shall purchase Products from Photronics by issuing a Purchase Order or a release to a blanket Purchase Order that references this Agreement. Micron and Photronics agree that a Purchase Order sent to Photronics by confirmed facsimile or electronic transmission shall constitute a writing for all legal purposes. All Purchase Orders submitted to Photronics shall be governed by the terms of this Agreement. Nothing contained in any Purchase Order or the Parties' other documents of purchase or sale shall in any way modify the terms of purchase or add any additional terms or conditions except as specifically agreed in writing by the Parties.

3.2 Acknowledgment of Purchase Orders. For Micron's orders from Photronics Facilities, Photronics shall notify Micron of the receipt and acceptance of a Purchase Order or releases thereto and of the accepted delivery date for accepted orders within two (2) business days after receipt of the Purchase Order and any Purchase Order not specifically rejected in writing by Photronics during such period shall be deemed accepted hereunder. Photronics may not reject a Purchase Order or release issued in compliance with this Agreement and seeking delivery of Products within established lead times and the Forecasted amounts (subject to the Maximum Capacity Commitment, if applicable).

3.3 Revision of Purchase Orders. Micron shall have the right, without charge, to issue change orders to Purchase Orders by providing written notice to Photronics prior to the beginning of the production of the Product impacted by such change order. Photronics shall use all commercially reasonable efforts to accommodate Micron's revised Purchase Order in accordance with the lead times in effect at the time the Purchase Order change is requested.

3.4 Cancellations. Micron may cancel all or any part of a Purchase Order, without charge, by providing written notice to Photronics prior to the beginning of the production of the Product impacted by such cancellation.  
[\*\*\*\*].

3.5 Reschedules. Micron may reschedule the delivery of any Purchase Order or portion thereof for Products, without charge, upon notice to Photronics.

### 4. SHIPPING; DELIVERY; ACCEPTANCE

4.1 Packaging Requirements. All shipments shall be in packaging that complies with Micron's packaging requirements provided to Photronics and the Specifications. In addition, all shipments shall be accompanied by a detailed packing list which will reference the Products, Purchase Order number, and the quantity in each shipment covered by the packing list.

4.2 Shipping. Photronics shall ensure that Product orders are delivered on the applicable delivery date(s). Orders will be shipped to the delivery address set forth in the applicable Purchase Order.

4.3 Delivery. Photronics' liability for delivery shall cease and title and all risk of loss or damage shall transfer to Micron when Product is delivered to Micron's designated receiving facility as specified in the Purchase Order. Micron shall be the importer of record

and pay all related duties, fees and charges. Photronics shall immediately notify Micron in writing of any anticipated delay in meeting the delivery schedule, stating the reasons for the delay. No shipment will be deemed complete until all ordered units have been delivered.

4.4 Dead on Arrival. In the event that any Product is found by Micron to be Dead-on-Arrival, Photronics shall use reasonable efforts consistent with the Company's practices to ship, at Photronics' sole expense, a replacement Product to the site designated by Micron within fourteen (14) business days of receipt of notice from Micron, and Micron shall return the Dead-on-Arrival Product in accordance with the Product return procedures described under Section 6.2.

## 5. PRICE; PAYMENTS; TAXES; AUDIT

5.1 Purchase Price for Products. The purchase price for each Product purchased by Micron from Photronics shall be as set forth in Schedule 5.1.

5.2 Payments Terms. Photronics shall issue and deliver an invoice to Micron for any amounts payable to Photronics pursuant to this Agreement. [\*\*\*\*]. Unless otherwise agreed by the Parties, payments for Products delivered in accordance with Section 4, and any other payments required hereunder, shall be made within thirty (30) days after the receipt of final invoice. Payment does not constitute acceptance. In no event shall Photronics deliver an invoice before shipping the Products to which such invoice relates. Photronics may suspend performance hereunder if Micron fails to make any material overdue and undisputed payments hereunder within thirty (30) days after receipt of written notice from Photronics that such payment is overdue.

5.3 Taxes. All amounts payable for Product sold by Photronics to Micron hereunder are exclusive of any taxes. Micron shall be responsible for and shall pay any applicable sales, use, excise or similar taxes, including value added taxes and customs duties due on the importation of Products and arising from purchases made by Micron under this Agreement, excluding any taxes based on Photronics' income. All such taxes shall be determined based upon the final shipment designation of the items identified on the invoice.

5.4 Audit of Books and Records. Upon Micron's request from time to time (not to exceed two (2) times per year), Micron shall, upon reasonable advance notice to Photronics, have the right to have an independent auditor reasonably acceptable to Photronics perform an audit of Photronics' books and records to verify Photronics' compliance with the terms and conditions of this Agreement, [\*\*\*\*]. In the event an audit reveals an overpayment by Micron, Photronics shall immediately issue a refund to Micron for any such overpayment. Any audit performed hereunder shall be performed in a manner that does not unreasonably interfere with Photronics' business and ensures compliance with all Applicable Laws and confidentiality requirements.

5.5 Inspection and Audit of Photronics Facilities. Upon Micron's reasonable advance request from time to time, Micron shall have the right to perform a reasonable inspection and audit of Photronics' facilities used to manufacture Product hereunder, as necessary to verify that the manufacturing facilities are Qualified in respect of any part type family or Process Node. In the event an inspection of a Photronics' Facility reveals any deficiency in meeting Micron's Specifications and requirements or any other failure to be Qualified, Photronics shall promptly take action to remedy such deficiency.

## 6. WARRANTIES

6.1 Product Warranty. [\*\*\*\*]. This warranty does not apply to any Product failures resulting from any misuse, abuse, neglect, alteration, modification, improper installation of or repairs to the Product by anyone other than Photronics or the Company.

6.2 Remedies. In the event that Micron notifies Photronics during the applicable Warranty Period that any Product does not conform to the warranty provisions set forth in Section 6.1, Photronics shall, at Micron's option, (a) replace such defective Product at no cost to Micron in accordance with Photronics' Product return material authorization procedures within ten (10) days of Photronics' receipt of the defective Product, (b) repair such defective Product at no cost to Micron, or (c) provide a refund of any amounts paid by Micron for such defective Product. Photronics shall bear all packing, transportation, insurance and other costs incurred in connection with the replacement or repair of defective Products. Except for resulting personal injury or property damage, this paragraph states the exclusive remedy of Micron for failure of any Product to conform to the warranty provisions set forth in Section 6.1.

6.3 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES (AND EACH PARTY HEREBY EXPRESSLY DISCLAIMS) ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

## 7. CONFIDENTIAL INFORMATION

7.1 Protection and Use of Confidential Information. All information provided, disclosed or obtained in connection with this Agreement or the performance of either of the Parties' activities under this Agreement shall be subject to all applicable provisions of the Nondisclosure Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "Confidential Information" under the Nondisclosure Agreement for which each Party is considered a "Receiving Party" under such agreement. To the extent there is a conflict between this Agreement and the Nondisclosure Agreement, the terms of this Agreement shall control. If the Nondisclosure Agreement is terminated or expires and is not replaced, such Nondisclosure Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the Initial Term and any and all extension periods or until a new nondisclosure agreement is entered into between the Parties.

## 8. LIMITATION OF LIABILITY

[\*\*\*\*], IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY CLAIMING THROUGH OR UNDER EACH SUCH PARTY, FOR ANY LOST PROFITS, LOST DATA, EQUIPMENT DOWNTIME, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, BASED ON A WARRANTY, SALE OF PRODUCT OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF EACH SUCH PARTY HAS BEEN ADVISED OF THE

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

POSSIBILITY OF SUCH DAMAGES. [\*\*\*\*]. Each Party acknowledges that the foregoing limitations are an essential element of the Agreement between the Parties and that in the absence of such limitations the pricing and other terms set forth in this Agreement would be substantially different. Except for Product to be supplied pursuant to Section 9.4.3, in no other event shall Photronics be liable for "cover" damages claimed by Micron arising out of any failure by Photronics to supply Products hereunder after expiration or termination of this Agreement. Each Party shall have a duty to mitigate any damages hereunder in accordance with applicable law.

## 9. TERM AND TERMINATION

9.1 Term. This Agreement will be effective as of the Effective Date, and shall remain in force for ten (10) years (the "Initial Term"). The expiration of this Agreement after its initial term or any renewal terms shall not be a termination for purposes of Section 9.4.3 below.

9.2 Termination for Breach. Either Micron or Photronics may terminate this Agreement at any time in the event that the other Party materially breaches any of the provisions of this Agreement or the Photronics Supply Agreement and does not cure such material breach within ninety (90) days following receipt of notice of such breach. Provided that if the breach is capable of being cured and the breaching Party has worked diligently and in good faith since the receipt of the notice to cure such breach, the cure period will be extended for an additional thirty (30) days.

9.3 Cross-Termination. Unless otherwise expressly agreed in writing by the Parties, this Agreement shall automatically terminate upon the dissolution of the Company or the termination of the Operating Agreement, Micron's purchase of Photronics' Membership Interests or termination of the Photronics Supply Agreement.

### 9.4 Effect of Termination.

9.4.1 Continuing Liability. The termination of this Agreement for any reason shall not release either Party from any liability, obligation or agreement which has already accrued at the time of termination. Termination of this Agreement for any reason shall not constitute a waiver or release of, or otherwise be deemed to prejudice or adversely affect, any rights, remedies or claims, whether for damages or otherwise, which a Party may have hereunder, at law or otherwise, or which may arise out of or in connection with such termination.

9.4.2 Outstanding Purchase Order Fulfillment. Except as provided in Section 9.4.3 below, Photronics shall complete all Purchase Orders that have been previously accepted by Photronics and not specifically cancelled upon termination by Micron, and shall accept and fulfill any Purchase Orders issued by Micron for a period of [\*\*\*\*] after termination of this Agreement, provided that the reason for termination was not a failure by Micron to pay undisputed amounts to Photronics under this Agreement.

9.4.3 [\*\*\*\*].

9.4.4 Payment Obligation. Micron shall pay for all Products previously delivered by Photronics and all Products subsequently delivered by Photronics pursuant to the Purchase Orders referred to in Section 9.4.2.

9.5 Survival. The provisions of Sections 2.7 (to the extent implicated by Section 9.4.3), 5.3, 6, 7, 8, 9.4, 9.5, 10 and 11 shall survive any termination of this Agreement.

## 10. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

10.1 Micron Indemnity. Micron shall defend Photronics at Micron's expense, subject to the limits contained herein, against any third party suits, actions, claims or proceedings alleging that photomasks manufactured by Photronics strictly in accordance with Micron Specifications at Copy Exact Photronics Facilities or the Company facility for sale to Micron hereunder infringe such third party's patent rights, copyrights or trademarks, or misappropriate such third party's trade secrets, and Micron agrees to indemnify Photronics and hold Photronics harmless from and against any damages, losses, costs and expenses (including reasonable attorneys' fees) awarded by a court or in settlement against Photronics in connection with any such third party claim, [\*\*\*\*]; provided that (i) Photronics notifies Micron promptly in writing of the claim; (ii) Micron has sole control of the defense and all related settlement negotiations; and (iii) Photronics provides Micron (at Micron's request and reasonable expense) with all necessary assistance, information, and authority to perform these duties.

10.2 Exclusions. Notwithstanding the foregoing, Micron shall not indemnify Photronics against claims, and shall have no liability for any claims of infringement based on or arising from (i) use of any superseded Licensed Technology where Micron has made available specific replacements for such Licensed Technology, to the extent the infringement would have been avoided by use of the replacement Licensed Technology; (ii) modification of the Licensed Technology by Photronics or any third party to the extent such infringement would have been avoided but for such modification; (iii) the combination or use of the Licensed Technology with materials or technology not furnished by Micron, to the extent such infringement would have been avoided but for such combination; or (iv) any claims that the customer products produced as a result of using the photomasks specified and purchased by Micron infringe or misappropriate the Intellectual Property Rights of any third party.

10.3 Photronics Indemnity. Photronics shall defend Micron at Photronics' expense, subject to the limits contained herein, against any third party suits, actions, claims or proceedings alleging that any photomasks manufactured by Photronics at Photronics facilities or the Company facility, infringe such third party's patent rights, copyrights or trademarks, or misappropriate such third party's trade secrets, and Photronics agrees to indemnify Micron and hold Micron harmless from and against any damages, losses, costs and expenses (including reasonable attorneys' fees) awarded by a court or in settlement against Micron in connection with any such third party claim [\*\*\*\*]; provided that (i) Micron notifies Photronics promptly in writing of the claim; (ii) Photronics has sole control of the defense and all related settlement negotiations; and (iii) Micron provides Photronics (at Photronics' request and reasonable expense) with all necessary assistance, information, and authority to perform these duties.

10.4 Exclusions. Notwithstanding the foregoing, Photronics shall not indemnify Micron against claims, and shall have no liability for any claims, of infringement with respect to which Photronics is indemnified by Micron under Section 10.1 above, or based on or arising from any claims that the customer products produced as a result of using the photomasks specified and purchased by Micron infringe or misappropriate the Intellectual Property Rights of any third party.

## 11. MISCELLANEOUS TERMS

11.1 Amendments. This Agreement may not be amended without the prior written consent of both Parties.

11.2 No Waiver. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and is duly executed by the Party against whom the waiver is to be enforced. No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial waiver or exercise thereof preclude the enforcement of any other right, power or privilege.

11.3 Notices and Other Communications. All notices required or permitted under this Agreement shall reference this Agreement and will be deemed given: (a) when sent by confirmed facsimile; (b) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (c) three (3) business days after deposit with an internationally recognized commercial overnight carrier specifying next-day delivery, with written verification of receipt. All such notices, requests, demands and other communications shall be addressed as follows:

If to Photronics:

Photronics, Inc.  
15 Secor Road  
Brookfield, CT 06804  
Attention: Edwin L. Lewis, Senior Vice President and General  
Counsel  
Facsimile: (203) 775-5601

and

Photronics, Inc.  
15 Secor Road  
Brookfield, CT 06804  
Attention: Sean Smith, Senior Vice President and Chief Financial  
Officer  
Facsimile: (203) 775-5601

If to Micron:

Micron Technology, Inc.  
8000 S. Federal Way  
Boise, Idaho 83716  
Attention: General Counsel  
Facsimile: (208) 368-4540

or to such other address or facsimile number as a Party may have specified to the other Parties in writing delivered in accordance with this Section.

11.4 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements among Delaware residents entered into and wholly to be performed within the State of Delaware (without reference to any choice or conflicts of laws rules or principles that would require the application of the laws of any other jurisdiction).

#### 11.5 Construction; Interpretation.

11.5.1 Certain Terms. The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "including" is not limited and means "including without limitation."

11.5.2 Section References; Titles and Subtitles. Unless otherwise noted, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement. The titles, captions and headings of this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

11.5.3 Reference to Persons, Agreements, Statutes. Unless otherwise expressly provided herein, (i) references to a Person include its successors and permitted assigns, (ii) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto or supplements thereof and (iii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

11.5.4 Presumptions. No party, nor its counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all provisions of this Agreement shall be construed in accordance with their fair meaning, and not strictly for or against any party.

11.6 Rights and Remedies Cumulative. Except as provided in Section 6.2 and subject to the limitations of liability provided in Section 8, above, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to any Party at law, in equity or otherwise.

11.7 No Assignment; Binding Effect. Except as otherwise expressly provided in this Agreement, neither Party may assign, delegate or otherwise transfer any of its rights or obligations hereunder to any third party, whether by assignment, transfer, Change in Control, or other means, without the prior written consent of the other Party; provided, however, that this Agreement may be assigned in connection with a Permitted Photronics Change of Control if Micron does not elect to exercise its purchase rights pursuant to Section 7.4.2 of the Operating Agreement. Any attempted assignment in violation of the foregoing shall be null and void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the Parties, their heirs, executors, administrators, and successors.



11.8 Relationship of the Parties; Non-exclusivity. In the exercise of their respective rights and the performance of their respective obligations hereunder the Parties are, and will remain independent contractors. Nothing in this Agreement will be construed to constitute the Parties as partners or principal and agent for any purpose whatsoever. Neither Party will bind, or attempt to bind, the other Party hereto to any contract or other obligation, and neither Party will represent to any third party that it is authorized to act on behalf of the other Party to this Agreement. Subject to Section 2.6, nothing in this Agreement shall obligate Micron to purchase Products exclusively from Photronics or the Company, and Micron may at any time purchase Products from other third party manufacturers. In addition and notwithstanding anything in this Agreement, Micron may make direct purchases from the Company in accordance with the terms and conditions of the Micron Supply Agreement.

11.9 Severability. If any provision in this Agreement will be found or be held to be invalid or unenforceable, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement which will remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by any Party. In such event, the Parties will use their respective best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly effects the Parties' intent in entering into this Agreement.

11.10 Execution. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. Execution and delivery of this Agreement by exchange of facsimile copies bearing the facsimile signature of a Party shall constitute a valid and binding execution and delivery of this Agreement by such Party.

11.11 Dispute Resolution. The Parties hereby agree that claims, disputes or controversies of whatever nature, arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement (or any other agreement contemplated by or related to this Agreement), shall be resolved in accordance with the dispute resolution procedures set forth in Section 11.3 of the Operating Agreement.

11.12 Entire Agreement. This Agreement, together with the other documents, exhibits and schedules referred to herein and therein, constitute the entire agreement among the Parties hereto pertaining to the subject matter hereof, and supersede any and all prior oral and written, and all contemporaneous oral, agreements or understandings pertaining thereto. There are no agreements, understandings, restrictions, warranties or representations relating to such subject matter between the Parties other than those set forth herein and in the other documents, exhibits and schedules referred to herein and therein.

11.13 No Third Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors and permitted assigns, and the Parties do not intend to confer third party beneficiary rights upon any other Entity or person.

11.14 Force Majeure. Neither Party shall be deemed in default if its performance or obligations hereunder are delayed or become impossible or impractical due to causes beyond its reasonable control, including acts of God, war, fire, earthquake, flood, riot and acts of civil or military authority. Force majeure events shall not include delays in

transportation, shortages of material or delays by subcontractors or suppliers, unless such delay by a subcontractor or a supplier was caused by an event that would qualify as a force majeure event under this Section 11.14. Under no circumstances shall economic considerations or economic impossibilities or inefficiencies delay performance or be considered a force majeure. The time for performance of any such obligation shall be extended for the time period lost by reason of the delay. During any period in which Photronics is unable to fulfill Micron purchase orders due to a force majeure event and for ninety (90) days after the effect of the force majeure event ends, Micron shall be relieved of its purchase commitment pursuant to Section 2.6.

[Signature Page Follows]

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

Photronics, Inc.

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

Micron Technology, Inc.

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

SCHEDULE 5.1

PRICING

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

## COMPANY TO PHOTRONICS SUPPLY AGREEMENT

THIS COMPANY TO PHOTRONICS SUPPLY AGREEMENT is made and entered into as of May 5, 2006 (the "Effective Date"), by and between MP Mask Technology Center, LLC, a Delaware limited liability company (the "Company"), and Photronics, Inc., a Connecticut corporation ("Photronics"). The Company and Photronics are hereinafter collectively referred to as the "Parties" and individually as a "Party."

## RECITALS

WHEREAS, pursuant to the Limited Liability Company Operating Agreement of the Company of the same Effective Date herewith (the "Operating Agreement"), by and between Micron Technology, Inc. ("Micron") and Photronics, Micron and Photronics have formed the Company for the purpose of developing, producing and manufacturing photomasks and prototypes for photomasks ("Products");

WHEREAS, Micron and Photronics have entered into a technology license agreement of the same Effective Date herewith (the "Technology License Agreement"), under which the necessary technology has been licensed to the Company in order for it to fulfill its obligations under this Agreement;

WHEREAS, Micron and Photronics have entered into a separate supply agreement of the same Effective Date herewith (the "Photronics to Micron Supply Agreement"), which details the terms under which Photronics will supply to Micron the products it has purchased from the Company under this Agreement; and

WHEREAS, Photronics and the Company desire to enter into this Agreement so that Photronics may purchase the products manufactured by the Company;

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and other terms and conditions contained herein, the Parties hereby agree as follows:

## 1. DEFINITIONS; INTERPRETATION

For purposes of this Agreement, the definitions set forth in this Section 1 shall apply to the respective capitalized terms. All capitalized terms not defined herein shall have the meaning set forth in the Operating Agreement.

1.1 "Company Location" shall mean the Company's photomask production facility located at [\*\*\*\*].

1.2 "Cost" shall have the meaning set forth in Schedule 5.1

1.3 "Dead-on-Arrival" shall mean any Products that are discovered to contain a Material Defect within thirty (30) calendar days after receipt of shipment of the Product.

1.4 "Entity" means a corporation, partnership, limited liability company, unincorporated organization, business association, firm, joint venture or other legal entity.

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

1.5 "Fiscal Month" shall mean a fiscal month of Micron.

1.6 "Fiscal Quarter" shall mean a fiscal quarter of Micron.

1.7 "Loading Requirement" shall have the meaning defined in the Photronics to Micron Supply Agreement.

1.8 "Material Defect" shall mean any malfunction, error or other defect in a Product that constitutes a material nonconformity with the Specifications for such Product under conditions of normal and proper use.

1.9 "Micron Supply Agreement" shall mean the Company to Micron Supply Agreement of the same Effective Date herewith, by and between Micron and the Company.

1.10 "Micron's Specifications" shall mean the specifications provided by Micron for each Product in accordance with Micron's photomask ordering

procedures and node requirements.

1.11 "Product" or "Products" means photomasks and photomask prototypes that are to be manufactured by the Company or Photronics in accordance with Micron's Specifications and requirements or in accordance with a Photronics' customer's specifications and requirements, as applicable.

1.12 "Purchase Order" shall mean a written purchase order that is delivered to the Company in accordance with Section 3.2.

1.13 "Qualified" shall have the meaning set forth in the Technology License Agreement.

1.14 "Specifications" shall mean the specifications provided by Photronics to the Company for each Product in accordance with Photronics' photomask ordering procedures and node requirements.

1.15 "Technology License Agreement" shall mean the Technology License Agreement of the same effective date herewith, by and among Micron, Photronics and the Company.

## 2. PURCHASES; MANUFACTURE AND SUPPLY; FORECASTS

2.1 Photronics Purchases. Photronics shall purchase Products from the Company in accordance with the terms and conditions of this Agreement. Subject to the terms of this Agreement and the Operating Agreement, Photronics may subcontract to the Company the manufacture of Product for which it has received purchase orders (x) from Micron pursuant to the Photronics to Micron Supply Agreement and (y) from other customers of Photronics, and will purchase Product manufactured by the Company at the purchase price set forth in Section 5.1.

2.2 Company Manufacture and Supply of Product; Micron Purchases. Except as set forth in this paragraph, the Photronics to Micron Supply Agreement and the Micron Supply Agreement, the Company shall sell Product to Photronics for resale to Micron and other customers of Photronics and shall not sell Products manufactured by the

Company directly to Micron. In addition, in the event Photronics is (i) in default of any of its material obligations under any of the Transaction Documents, or (ii) unable, unwilling or otherwise fails, for any or no reason, to become or remain Qualified with respect to any Product, then notwithstanding any other provision herein or in the Photronics to Micron Supply Agreement, Micron may purchase Products directly from the Company, at the Company's actual documented cost and in accordance with the terms of this Agreement, until Photronics (a) cures any default hereunder or (b) demonstrates, to Micron's reasonable satisfaction, that it can and does meet Micron's specified qualification requirements with respect to Products, as applicable.

2.3 Forecasts. [\*\*\*\*].

2.4 Capacity Commitment. [\*\*\*\*].

### 3. PURCHASE ORDERS

3.1 Purchase Orders. Photronics shall purchase Products from the Company by issuing a Purchase Order or a release to a blanket Purchase Order that references this Agreement. Photronics and the Company agree that a Purchase Order sent to the Company by confirmed facsimile or electronic transmission shall constitute a writing for all legal purposes. All Purchase Orders submitted to the Company shall be governed by the terms of this Agreement. Nothing contained in any Purchase Order or the Parties' other documents of purchase or sale shall in any way modify the terms of purchase or add any additional terms or conditions except as specifically agreed in writing by the parties.

3.2 Acknowledgment of Purchase Orders. The Company shall notify Photronics of the receipt and acceptance of a Purchase Order and of the accepted delivery date for accepted orders within two (2) business days after receipt of the Purchase Order and any Purchase Order not specifically rejected in writing by the Company during such period shall be deemed accepted hereunder. The Company may not reject a Purchase Order or release issued in compliance with this Agreement and seeking delivery of Products within Forecasted amounts and established lead times.

3.3 Revision of Purchase Orders. Photronics shall have the right, without charge, to issue change orders to Purchase Orders by providing written notice to the Company prior to the beginning of the production of the Product impacted by such change order. The Company shall use all commercially reasonable efforts to accommodate Photronics' revised Purchase Order in accordance with the Company's lead times in effect at the time the Purchase Order change is requested.

3.4 Cancellations. [\*\*\*\*].

3.5 Reschedules. Photronics may reschedule the delivery of any Purchase Order or portion thereof for Products, without charge upon notice to the Company.

### 4. SHIPPING; DELIVERY; ACCEPTANCE

4.1 Packaging Requirements. All shipments shall be in packaging that complies with the Specifications and, if applicable, Micron's packaging requirements. In addition, all

shipments shall be accompanied by a detailed packing list which will reference the Products, Purchase Order number, and the quantity in each shipment covered by the packing list.

4.2 Shipping. The Company shall ensure that Product orders are delivered on the applicable delivery date(s). Orders will be shipped to the delivery address set forth in the applicable Purchase Order.

4.3 Delivery. The Company's liability for delivery shall cease and title and all risk of loss or damage shall transfer to Photronics when the Product is delivered to Photronics' or its customer's designated receiving facility, as specified in the Purchase Order. Photronics or its customer shall be the importer of record and pay all related duties, fees and charges. The Company shall immediately notify Photronics in writing of any anticipated delay in meeting the delivery schedule, stating the reasons for the delay. No shipment will be deemed complete until all ordered units have been delivered.

4.4 Dead on Arrival. In the event that any Product is found by Photronics or Micron to be Dead-on-Arrival, the Company shall use reasonable efforts consistent with the Company's practices to ship, at the Company's sole expense, a replacement Product to the site designated by Photronics or Micron within fourteen (14) business days of receipt of notice from Photronics or Micron and Photronics or Micron shall return the Dead-on-Arrival Product in accordance with the Product return procedures described under Section 6.2.

## 5. PRICE; PAYMENTS; TAXES; AUDIT

5.1 Purchase Price for Products. The purchase price for each Product purchased by Photronics from the Company shall be the Company's cost of the Product as set forth in Schedule 5.1.

5.2 Payments Terms. The Company shall provide an invoice to Photronics with an estimated price upon the shipment of Product hereunder. Each such invoice shall specify the Purchase Order for each Product and the estimated price per photomask. After each Fiscal Month end, the Company shall provide Photronics with a final invoice and Photronics' payment obligation shall be calculated from the date of Photronics' receipt of such invoice. Unless otherwise agreed by the Parties, payments for Product delivered in accordance with Section 4, and any other payments required hereunder, shall be made within thirty (30) days after the receipt of the final invoice. Payment does not constitute acceptance. In no event shall the Company deliver an invoice before shipping the Products to which such invoice relates. All amounts payable by Photronics to the Company shall be paid in U.S. Dollars.

5.3 Taxes. All amounts payable for Product sold by the Company to Photronics hereunder are exclusive of any taxes. Photronics shall be responsible for and shall pay any applicable sales, use, excise or similar taxes, including value added taxes and customs duties due on the importation of Products and arising from purchases made by Photronics under this Agreement, excluding any taxes based on the Company's income. All such taxes shall be determined based upon the final shipment designation of the items identified on the invoice.

5.4 Audit of Books and Records. Upon Photronics' request from time to time (not to exceed two (2) times per year), Photronics shall have the right to perform an audit of



the Company's books and records to verify its compliance with the terms and conditions of this Agreement. In the event an audit reveals an overpayment by Photronics, the Company shall immediately issue a refund to Photronics for any such overpayment. Any audit performed hereunder shall be performed in a manner that ensures compliance with all applicable Laws and confidentiality requirements.

5.5 Inspection of Company Location. Upon Photronics' reasonable request from time to time, Photronics shall have the right to perform a reasonable inspection of the Company's Location, as necessary to verify that the facility meets Micron's Specifications and requirements. In the event an inspection of the Company's Location reveals any deficiency in meeting Micron's Specifications and requirements, the Company shall promptly take action to remedy such deficiency.

## 6. WARRANTIES

6.1 Company Product Warranty. [\*\*\*\*]. This warranty does not apply to any Product failures resulting from any misuse, abuse, neglect, alteration, modification, improper installation of or repairs to the Product by anyone other than the Company.

6.2 Remedies. In the event that Photronics or Micron notifies the Company during the applicable Warranty Period that any Product does not conform to the warranty provisions set forth in Section 6.1, the Company shall, at its option, (a) replace such defective Product at no cost to Photronics or Micron, as applicable, in accordance with the Company's Product return material authorization procedures within ten (10) days of the Company's receipt of the defective Product, (b) repair such defective Product at no cost to Photronics or Micron, as applicable, or (c) provide a refund of any amounts paid by Photronics or Micron, as applicable, for such defective Product. The Company shall bear all packing, transportation, insurance and other costs incurred in connection with the replacement or repair of defective Products. Except for resulting personal injury or property damage, this paragraph states the exclusive remedy of Photronics for failure of any Product to conform to the warranty provisions set forth in Section 6.1.

6.3 No Warranty Pass Through. Photronics shall have the right to make Product warranties to its customers consistent with the Product warranty made by the Company under this Agreement. Photronics hereby indemnifies and holds the Company harmless from and against any liabilities, losses, damages, costs and expenses, including attorneys' fees and costs, incurred by the Company resulting from any claims based on or related to any representation or warranty made by Photronics regarding the Products that is inconsistent with the warranty made by the Company hereunder.

6.4 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES (AND EACH PARTY HEREBY EXPRESSLY DISCLAIMS) ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

## 7. CONFIDENTIAL INFORMATION

7.1 Protection and Use of Confidential Information. All information provided, disclosed or obtained in connection with this Agreement or the performance of either of the Parties' activities under this Agreement shall be subject to all applicable provisions of the Nondisclosure Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "Confidential Information" under the Nondisclosure Agreement for which each Party is considered a "Receiving Party" under such agreement. To the extent there is a conflict between this Agreement and the Nondisclosure Agreement, the terms of this Agreement shall control. For purposes of this Section 7.1 only, Micron shall be considered a "Party." If the Nondisclosure Agreement is terminated or expires and is not replaced, such Nondisclosure Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the Initial Term and any and all extension periods or until a new nondisclosure agreement is entered into between the Parties.

8. LIMITATION OF LIABILITY. [\*\*\*\*], IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY CLAIMING THROUGH OR UNDER EACH SUCH PARTY, FOR ANY LOST PROFITS, LOST DATA, EQUIPMENT DOWNTIME, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT, BASED ON A WARRANTY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF EACH SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. [\*\*\*\*]. Each Party acknowledges that the foregoing limitations are an essential element of the Agreement between the Parties and that in the absence of such limitations the pricing and other terms set forth in this Agreement would be substantially different. Each Party shall have a duty to mitigate any damages hereunder in accordance with applicable law.

## 9. TERM AND TERMINATION

9.1 Term. This Agreement will be effective as of the Effective Date, and shall remain in force for ten (10) years (the "Initial Term").

9.2 Termination for Breach. The Company may terminate this Agreement in the event that Photronics materially breaches any of the provisions of this Agreement or the Photronics to Micron Supply Agreement and does not cure such material breach within ninety (90) days following receipt of notice of such breach. Provided that if the breach is capable of being cured and the breaching Party has worked diligently and in good faith since the receipt of the notice to cure such breach, the cure period will be extended for an additional thirty (30) days.

9.3 Cross-Termination. Unless otherwise expressly agreed in writing by the parties, this Agreement shall automatically terminate upon the dissolution of the Company or the termination of the Operating Agreement or the Photronics to Micron Supply Agreement.

#### 9.4 Effect of Termination.

9.4.1 Continuing Liability. The termination of this Agreement for any reason shall not release either party from any liability, obligation or agreement which has already accrued at the time of termination. Termination of this Agreement for any reason shall not constitute a waiver or release of, or otherwise be deemed to prejudice or adversely affect, any rights, remedies or claims, whether for damages or otherwise, which a party may have hereunder, at law or otherwise, or which may arise out of or in connection with such termination.

9.4.2 Outstanding Purchase Order Fulfillment. The Company shall complete all Purchase Orders that have been previously accepted by the Company and not specifically cancelled upon termination by Photronics or Micron and shall accept and fulfill any Purchase Orders issued by Photronics or Micron for a period of [\*\*\*\*] after termination of this Agreement, provided that the reason for termination was not a failure by Photronics to pay amounts previously due to the Company under this Agreement.

9.4.3 Payment Obligation. Photronics shall pay for all Products previously delivered by the Company and all Products subsequently delivered by the Company pursuant to the Purchase Orders referred to in Section 9.4.2.

9.5 Survival. The provisions of Sections 5.3, 6, 7, 8, 9.4, 9.5 and 10 shall survive any termination of this Agreement.

#### 10. MISCELLANEOUS TERMS

10.1 Amendments. This Agreement may not be amended without the prior written consent of both parties.

10.2 No Waiver. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and is duly executed by the party against whom the waiver is to be enforced. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial waiver or exercise thereof preclude the enforcement of any other right, power or privilege.

10.3 Notices and Other Communications. All notices required or permitted under this Agreement shall reference this Agreement and will be deemed given: (a) when sent by confirmed facsimile; (b) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (c) three (3) business days after deposit with an internationally recognized commercial overnight carrier specifying next-day delivery, with written verification of receipt. All such notices, requests, demands and other communications shall be addressed as follows:

If to the Company:

MP Mask Technology Center, LLC  
3851 East Columbia Road  
Boise, Idaho 83716  
Attention: General Manager  
Facsimile: (208) 363-5099

If to Photronics:

Photronics, Inc.  
15 Secor Road  
Brookfield, CT 06804  
Attention: Edwin L. Lewis, Senior Vice President and General  
Counsel  
Facsimile: (203) 775-5601

and

Photronics, Inc.  
15 Secor Road  
Brookfield, CT 06804  
Attention: Sean Smith, Senior Vice President and Chief  
Financial Officer  
Facsimile: (203) 775-5601

or to such other address or facsimile number as a Party may have specified to the other Parties in writing delivered in accordance with this Section 10.3.

10.4 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, United States of America, as applied to agreements among Delaware residents entered into and wholly to be performed within the State of Delaware (without reference to any choice or conflicts of laws rules or principles that would require the application of the laws of any other jurisdiction).

#### 10.5 Construction; Interpretation.

10.5.1 Certain Terms. The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "including" is not limited and means "including without limitation."

10.5.2 Section References; Titles and Subtitles. Unless otherwise noted, all references to Sections and Schedules herein are to Sections and Schedules of this Agreement. The titles, captions and headings of this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

10.5.3 Reference to Persons, Agreements, Statutes. Unless otherwise expressly provided herein, (i) references to a Person include its successors and permitted assigns, (ii) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements and other modifications thereto or supplements thereof and (iii) references to any statute or regulation

are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such statute or regulation.

10.5.4 Presumptions. No party, nor its counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all provisions of this Agreement shall be construed in accordance with their fair meaning, and not strictly for or against any party.

10.6 Rights and Remedies Cumulative. All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to any Party at law, in equity or otherwise.

10.7 No Assignment; Binding Effect. Except as otherwise expressly provided in this Agreement, neither Party may assign, delegate or otherwise transfer any of its rights or obligations hereunder to any third party, whether by assignment, transfer, Change in Control, or other means, without the prior written consent of the other Party; provided, however, that this Agreement may be assigned in connection with a Permitted Photronics Change of Control if Micron does not elect to exercise its purchase rights pursuant to Section 7.4.2 of the Operating Agreement. Any attempted assignment in violation of the foregoing shall be null and void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the Parties, their heirs, executors, administrators, and successors.

10.8 Relationship of the Parties. In the exercise of their respective rights and the performance of their respective obligations hereunder the Parties are, and will remain independent contractors. Nothing in this Agreement will be construed to constitute the Parties as partners or principal and agent for any purpose whatsoever. Neither Party will bind, or attempt to bind, the other Party hereto to any contract or other obligation, and neither Party will represent to any third party that it is authorized to act on behalf of the other Party to this Agreement.

10.9 Severability. If any provision in this Agreement will be found or be held to be invalid or unenforceable, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement which will remain in full force and effect unless the severed provision is essential and material to the rights or benefits received by any party. In such event, the Parties will use their respective best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly effects the Parties' intent in entering into this Agreement.

10.10 Execution. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. Execution and delivery of this Agreement by exchange of facsimile copies bearing the facsimile signature of a Party shall constitute a valid and binding execution and delivery of this Agreement by such Party.

10.11 Force Majeure. Neither Party shall be deemed in default if its performance or obligations hereunder are delayed or become impossible or impractical due to causes beyond its reasonable control, including acts of God, war, fire, earthquake, and acts of civil

or military authority. Force majeure events shall not include delays in transportation, shortages of material or delays by subcontractors or suppliers, unless such delay by a subcontractor or a supplier was caused by an event that would qualify as a force majeure event under this Section 10.11. Under no circumstances shall economic considerations or economic impossibilities or inefficiencies delay performance or be considered a force majeure. The time for performance of any such obligation shall be extended for the time period lost by reason of the delay.

10.12 Dispute Resolution. The parties hereby agree that claims, disputes or controversies of whatever nature, arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement (or any other agreement contemplated by or related to this Agreement), shall be resolved in accordance with the dispute resolution procedures set forth in Section 11.3 of the Operating Agreement.

10.13 Entire Agreement. This Agreement, together with the other documents, exhibits and schedules referred to herein and therein, constitute the entire agreement among the parties hereto pertaining to the subject matter hereof, and supersede any and all prior oral and written, and all contemporaneous oral, agreements or understandings pertaining thereto. There are no agreements, understandings, restrictions, warranties or representations relating to such subject matter between the parties other than those set forth herein and in the other documents, exhibits and schedules referred to herein and therein.

10.14 No Third Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors and permitted assigns, and the Parties do not intend to confer third party beneficiary rights upon any other Entity or person. Notwithstanding the foregoing, Micron shall be deemed a third party beneficiary to the extent it purchases Product directly from the Company pursuant to Section 2.2 and shall have the right to directly enforce the obligations of the Company set forth in Sections 2.2, 4, 6 and 9.4.2 against the Company.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

Photronics, Inc.

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

MP Mask Technology Center, LLC

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

\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.

SCHEDULE 5.1

PRODUCT COST

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\*\*\*\* Material omitted pursuant to a request for confidential treatment under Rule 24b-2 of the Exchange Act of 1934. Material filed separately with the Securities and Exchange Commission.



## 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.

June 8, 2006

/s/ MICHAEL J. LUTTATI

Michael J. Luttati  
Chief Executive Officer

## 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.

June 8, 2006

/s/ SEAN T. SMITH

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Sean T. Smith  
Chief Financial Officer

## 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 April 30, 2006 (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

Michael J. Luttati  
Chief Executive Officer  
June 8, 2006

## EXHIBIT 32.2

### Section 1350 Certification of the Chief Financial Officer

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

- (1) the Quarterly Report on Form 10-Q of the Company for the quarter ended April 30, 2006 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ SEAN T. SMITH

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Sean T. Smith  
Chief Financial Officer  
June 8, 2006