

# 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 February 2, 2003

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)*

**1061 East Indiantown Road, Jupiter, Florida 33477**

*(Address of principal executive offices and zip code)*

**(561) 745-1222**

*(Registrant's telephone number, including area code)*

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

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

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

Yes  No

Indicate by check mark whether the registrant is an accelerated filer (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 February 14, 2003
<b>Common Stock, \$0.01 par value</b>	<b>32,040,770 Shares</b>

### Forward Looking Information

Certain statements in this report are considered "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. All forward looking statements involve risks and uncertainties. For a description of the factors that could cause the actual results of the Company to be materially different from those projected, please review the Company's SEC reports that detail these risks and uncertainties and the section captioned "Forward Looking Information" contained in the Company's Annual Report on Form 10-K for the year ended November 3, 2002. Any forward looking statements should be considered in light of these factors.

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**PHOTRONICS, INC.  
AND SUBSIDIARIES**

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## PART I. FINANCIAL INFORMATION

### Item 1. Condensed Consolidated Financial Statements

#### PHOTRONICS, INC. AND SUBSIDIARIES

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

	February 2, 2003	November 3, 2002
	(unaudited)	
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 91,640	\$113,944
Short term investments	15,645	15,148
Accounts receivable, net	59,737	62,545
Inventories	18,962	19,948
Deferred income taxes and other current assets	41,017	37,475
	<hr/>	<hr/>
Total current assets	227,001	249,060
Property, plant and equipment, net	440,494	443,860
Intangible and other assets	137,529	139,522
	<hr/>	<hr/>
	\$805,024	\$832,442
	<hr/>	<hr/>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of long-term debt	\$ 10,564	\$ 10,649
Accounts payable	41,539	57,401
Other accrued liabilities	29,651	38,982
	<hr/>	<hr/>
Total current liabilities	81,754	107,032
Long-term debt	290,740	296,785
Deferred income taxes and other liabilities	44,396	44,539
Minority interest	47,617	44,971
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, 32,041 shares issued and outstanding at February 2, 2003 and 32,033 shares issued and outstanding at November 3, 2002	320	320
Additional paid-in capital	195,820	195,588
Retained earnings	149,876	158,363
Accumulated other comprehensive loss	(5,383)	(14,999)
Deferred compensation on restricted stock	(116)	(157)
	<hr/>	<hr/>
Total shareholders' equity	340,517	339,115
	<hr/>	<hr/>
	\$805,024	\$832,442
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See accompanying notes to condensed consolidated financial statements.

**PHOTRONICS, INC. AND SUBSIDIARIES**

Condensed Consolidated Statements of Operations  
(in thousands, except per share amounts)

(unaudited)

	<b>Three Months Ended</b>	
	<b>February 2, 2003</b>	<b>January 31, 2002</b>
Net sales	\$ 81,393	\$ 95,686
Costs and expenses:		
Cost of sales	63,758	67,754
Selling, general and administrative	14,373	13,845
Research and development	7,619	7,131
Operating income (loss)	(4,357)	6,956
Other expenses, net	(3,030)	(3,069)
Income (loss) before income taxes and minority interest	(7,387)	3,887
Income tax provision (benefit)	(497)	500
Income (loss) before minority interest	(6,890)	3,387
Minority interest in income of consolidated subsidiaries	(1,597)	(1,640)
Net income (loss)	<u>\$ (8,487)</u>	<u>\$ 1,747</u>
Earnings (loss) per share:		
Basic	\$ (0.26)	\$ 0.06
Diluted	<u>\$ (0.26)</u>	<u>\$ 0.06</u>
Weighted average number of common shares outstanding:		
Basic	<u>32,037</u>	<u>30,313</u>
Diluted	<u>32,112</u>	<u>31,202</u>

See accompanying notes to condensed consolidated financial statements.

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**PHOTRONICS, INC. AND SUBSIDIARIES**

Condensed Consolidated Statements of Cash Flows

(in thousands)

(unaudited)

	<b>Three Months Ended</b>	
	<b>February 2, 2003</b>	<b>January 31, 2002</b>
Cash flows from operating activities:		
Net income (loss)	\$ (8,487)	\$ 1,747
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	22,570	20,115
Changes in assets and liabilities:		
Accounts receivable	4,083	4,184
Inventories	1,525	247
Other current assets	(3,365)	(3,767)
Accounts payable and other	(23,108)	225
Net cash provided by (used in) operating activities	<u>(6,782)</u>	<u>22,751</u>
Cash flows from investing activities:		
Deposits on and purchases of property, plant and equipment	(9,342)	(32,616)
Other	(60)	(3,738)
Net cash used in investing activities	<u>(9,402)</u>	<u>(36,354)</u>
Cash flows from financing activities:		
Repayments of long-term debt	(7,533)	(60,740)
Proceeds from issuance of common stock	77	1,344
Proceeds from issuance of convertible debt, net	-	193,431

Net cash provided by (used in) financing activities	(7,456)	134,035
Effect of exchange rate changes on cash flows	1,336	(2,444)
Net increase (decrease) in cash	(22,304)	117,988
Cash and cash equivalents at beginning of period	113,944	34,684
Cash and cash equivalents at end of period	\$ 91,640	\$152,672
Cash paid during the period for:		
Interest	\$ 4,384	\$ 4,547
Income taxes	\$ 169	\$ 46

See accompanying notes to condensed consolidated financial statements.

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**PHOTRONICS, INC. AND SUBSIDIARIES**  
**Notes to Condensed Consolidated Financial Statements**  
**Three Months Ended February 2, 2003 and January 31, 2002**  
**(unaudited)**

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

Photronics, Inc. and its subsidiaries (the "Company" or "Photronics") manufacture 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 are used as masters to transfer circuit patterns onto semiconductor wafers during the fabrication of integrated circuits and, to a lesser extent, other types of electrical components. The Company operates principally from 10 facilities, four of which are located in the United States, three in Europe and one each in Korea, Singapore and Taiwan.

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 year ending November 2, 2003. 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 November 3, 2002.

**NOTE 2 - Acquisition of PKL Ltd.**

In 2001, the Company completed the acquisition of a majority equity interest in PKL Ltd. ("PKL"), a leading Korean photomask supplier, for \$56 million. In April 2002, the Company acquired an additional 28% of PKL in exchange for 1,212,218 shares of Photronics common stock, and the Company's total majority equity interest is approximately 78%. The acquisition was accounted for as a purchase and accordingly goodwill in the aggregate of \$69.4 million was recorded. The operating results of PKL have been included in the Company's consolidated statements of operations since August 27, 2001. Had the acquisition of PKL, including the additional 28% acquired in April 2002, occurred at the beginning of fiscal 2002, the unaudited pro forma condensed consolidated net sales for the three months ended January 31, 2002 would have been \$95.7 million, the pro forma net income would have been \$2.2 million and earnings per share would have been \$0.07. In management's opinion, these unaudited pro forma amounts are not necessarily indicative of what the actual combined results of operations might have been if the acquisition of PKL had been effective at the beginning of the period presented.

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**NOTE 3 - COMPREHENSIVE INCOME**

The following table summarizes comprehensive income for the three months ended February 2, 2003 and January 31, 2002 (in thousands):

	<b>Three Months Ended</b>	
	<b>February 2, 2003</b>	<b>January 31, 2002</b>
Net income (loss)	\$(8,487)	\$ 1,747
Other comprehensive income:		
Unrealized gains (losses) on investments	(22)	124
Foreign currency translation adjustments	9,638	(446)
Net change in cash flow hedges	-	(690)
	<u>9,616</u>	<u>(1,012)</u>
Total comprehensive income	<u>\$ 1,129</u>	<u>\$ 735</u>

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

Earnings (loss) per share ("EPS") amounts are calculated in accordance with the provisions of Statement of Financial Standards ("SFAS") No. 128, "Earnings Per Share." Basic EPS is based on the weighted average number of common shares outstanding for the period, excluding any dilutive common share equivalents.

Diluted EPS reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted.

A reconciliation of basic and diluted EPS for the three months ended February 2, 2003 and January 31, 2002, respectively, follows (in thousands, except per share amounts):

	Net Income (Loss)	Average Shares Outstanding	Earnings (Loss) Per Share
<b>2003:</b>			
Basic	\$ (8,487)	32,037	\$ (0.26)
Effect of potential dilution from exercise of stock options	-	75	-
Diluted (a)	<u>\$ (8,487)</u>	<u>32,112</u>	<u>\$ (0.26)</u>
<b>2002:</b>			
Basic	\$ 1,747	30,313	\$ 0.06
Effect of potential dilution from exercise of stock options	-	889	-
Diluted (b)	<u>\$ 1,747</u>	<u>31,202</u>	<u>\$ 0.06</u>

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(a) The effect of stock options and the conversion of the Company's convertible notes for the three months ended February 2, 2003 is anti-dilutive. If the assumed exercise of stock options and conversion of convertible subordinated notes had been dilutive, the incremental additional shares outstanding would have been 7,626 for the three months ended February 2, 2003.

(b) The effect of the conversion of the Company's convertible notes for the three months ended January 31, 2002 is anti-dilutive. If the assumed conversion of convertible subordinated notes had been dilutive, the incremental additional shares outstanding would have been 6,396 for the three months ended January 31, 2002.

#### NOTE 5 - LONG -TERM DEBT

In July 2002, the Company entered into a credit agreement with a group of financial institutions that provides for a three-year, revolving credit facility (the "credit facility") with an aggregate commitment of \$100 million. The credit facility, which allows for borrowings in various currencies, includes a provision for an increase in the aggregate commitment up to \$125 million upon the conversion of at least 50% of the Company's \$103 million, 6% outstanding convertible notes. The applicable interest rate spread and facility fee vary based upon the Company's senior leverage ratio. The Company is subject to compliance with and maintenance of certain financial and other covenants. The credit facility is secured by a pledge of the Company's stock in certain of its subsidiaries. On February 3, 2003 the revolving credit facility was amended to modify certain covenants and definitions. Under the amended credit agreement the Company is required to maintain cash and permitted investments, as defined, less any borrowings under the credit facility (\$11.2 million at February 2, 2003) of at least \$65 million.

The credit facility provides management with the ability to refinance a portion of its debt on a long-term basis. At February 2, 2003, \$6.7 million in outstanding borrowings due over the course of the next year were classified as long term debt based on the Company's ability and intent to refinance these borrowings on a long-term basis.

In the fourth quarter of fiscal year 2002, the Company entered into an interest rate swap contract (the "Contract"), which effectively converted \$100 million of its 4.75% fixed rate convertible notes to a variable rate. Contract payments are made on a LIBOR based variable rate (2.67% at February 2, 2003) and are received at the 4.75% fixed rate.

The 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 changes in the fair value of the Company's fixed rate debt obligation. Accordingly, the Contract has been reflected at fair value in the Company's consolidated balance sheet 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 statement of operations. 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.

#### NOTE 6 - INCOME TAXES

The income tax provision (benefit) differs from the amount computed by applying the United States statutory rate of 35 percent to income (loss) before income taxes due to the Company's reduced tax rates in certain Asian jurisdictions and valuation allowances for certain deferred tax assets resulting from net operating loss carryforwards.

#### NOTE 7 - RECENT ACCOUNTING PRONOUNCEMENTS

In June 2001, the Financial Accounting Standards Board ("FASB") issued SFAS No. 143, "Accounting for Asset Retirement Obligations." SFAS No. 143 supersedes previous guidance for financial accounting and reporting for obligations associated with the retirement of tangible long-lived assets and the associated asset retirement costs. This statement applies to legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and (or) the normal operation of a long-lived asset.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets." SFAS No. 144 supersedes previous guidance for financial accounting and reporting for the impairment or disposal of long-lived assets.

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In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities". SFAS No. 146 nullifies Emerging Issues Task Force Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)."

In December 2002, the FASB issued SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure, an Amendment of FASB Statement No. 123." SFAS No. 148 requires quarterly disclosure of pro forma stock compensation information.

In November 2002, the FASB issued FASB Interpretation ("FIN") No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others." FIN No. 45 clarifies and expands existing disclosure requirements for guarantees, including loan guarantees.

In January 2003, the FASB issued FIN No. 46, "Consolidation of Variable Interest Entities - an Interpretation of Accounting Research Bulletin No. 51." FIN No. 46 clarifies rules for consolidation of special purpose entities.

SFAS No.'s 143, 144, 146 and 148 and FIN No's. 45 and 46 become effective for the Company's financial statements for fiscal year 2003. The Company does not expect the adoption of these statements to have a material impact on its consolidated financial position, consolidated results of operations or consolidated cash flows.

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

### Overview

In 2001, the Company completed the acquisition of a majority equity interest (approximately 51%) in PKL LTD. ("PKL"), a leading Korean photomask supplier, for \$56 million. In April 2002, the Company acquired an additional 28% of PKL in exchange for 1,212,218 shares of Photronics common stock. In the three month period ended February 2, 2003, PKL stock options were exercised which changed the Company's total majority equity interest to approximately 78%. The acquisition was accounted for as a purchase and accordingly goodwill in the aggregate of \$69.4 million was recorded. The operating results of PKL have been included in the Company's consolidated statements of operations since August 27, 2001.

In August 2002, the Company implemented a plan to reduce its operating cost structure by reducing its work force in the United States by approximately 135 employees and by ceasing the manufacture of photomasks at its Milpitas, California facility. Total consolidation and related charges of \$14.5 million were recorded in the fourth quarter of 2002. Of the total charge, \$10.5 million was non-cash for the impairment in carrying value of fixed assets, \$2.5 million of cash charges for severance and benefits for terminated employees that will be paid during their entitlement periods and \$1.5 million of cash charges for facilities closing costs as well as lease termination costs. Through February 2, 2003 cash charges of approximately \$3.6 million had been expended.

The Company's growth in recent years has been affected by the rapid technological changes taking place in the semiconductor industry resulting in a greater mix of high-end photomask requirements for more complex integrated circuit designs. During the latter half of 2001 and continuing through February 2, 2003, the Company was impacted by the downturn in the semiconductor industry which resulted in decreased demand and increased competitive pricing pressures. The Company cannot predict the duration of such cyclical industry conditions or their impact on its future operating results.

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.

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### Material Changes in Results of Operations

#### Three Months ended February 2, 2003 versus January 31, 2002

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

	Three Months Ended	
	February 2, 2003	January 31, 2002
Net sales	100.0%	100.0%
Cost of sales	78.3	70.8
Gross margin	21.7	29.2
Selling, general and administrative expenses	17.7	14.5
Research and development expenses	9.4	7.4
Operating income (loss)	(5.4)%	7.3%

Net sales for the quarter ended February 2, 2003 decreased 14.9% to \$81.4 million compared with \$95.7 million for the corresponding prior year period. The decrease in sales was attributable to a slow-down in new design releases, due in part, to the decreased end user demand, both consumer and corporate, for devices utilizing semiconductors and continued increased competitive pricing pressures for mature products. Design releases were also negatively impacted in 2003 by increased fab closures during the North American, European and Asian holiday periods. By geographic area, net sales in Asia increased \$5.7 million or 21%, while North American sales decreased \$21.5 million or 39% and European sales increased \$1.5 million or 12%.

Gross margin for the quarter ended February 2, 2003 decreased to 21.7% of net sales as compared to 29.2% during the corresponding period last year. The decrease is primarily associated with the decreased utilization of the Company's expanded fixed equipment cost base, primarily in North America, due in part, to decreased demand associated with fewer designs released into production, increased wafer fab closures during the holiday periods in 2003 and competitive

pricing pressures for mature product technologies. Additionally, improved gross margins at the Company's subsidiary in Korea were offset by lower margins from the Company's other locations.

Selling, general and administrative expenses increased 3.8% to \$14.4 million for the quarter ended February 2, 2003, compared with \$13.8 million for the same period in the prior fiscal year. As a percentage of net sales, selling, general and administrative expenses increased to 17.7% as compared to 14.5% for the same period in the prior fiscal year. Increased selling, general and administrative expenses were primarily associated with the Company's Asian operations.

Research and development expenses for the quarter ended February 2, 2003 increased 7.0% to \$7.6 million compared with \$7.1 million for the same period in the prior fiscal year. The increase is attributable to the continuing global development efforts of high-end process technologies for advanced, sub wavelength reticle solutions in Next Generation Lithography ("NGL") applications, which include the Company's five installed nano-technology line tool sets. Research and development was 9.4% of net sales for the quarter ended February 2, 2003, compared to 7.4% in the corresponding prior year period.

Net other expense was \$3.0 million for the quarter ended February 2, 2003, as compared to \$3.1 million for the quarter ended January 31, 2002. Net other expense is primarily comprised of interest expense, interest income and foreign currency gains or losses.

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Income taxes were a benefit of \$0.5 million for the quarter ended February 2, 2003 as compared to a provision of \$0.5 million for the quarter ended January 31, 2002. The Company's effective tax benefit rate for the quarter ended February 2, 2003 was lower than the United States statutory rate of 35% due to reduced tax rates in certain Asian jurisdictions and valuation allowances for certain deferred tax assets generated by net operating loss carryforwards.

Minority interest of \$1.6 million for the three months ended February 2, 2003 and January 31, 2002 reflects the minority interest in earnings of the Company's subsidiaries in Taiwan and Korea.

Net loss for the three months ended February 2, 2003 was \$8.5 million, or \$0.26 per basic and diluted share. These amounts compare to net income of \$1.7 million, or \$0.06 per basic and diluted share, for the corresponding prior year period.

### Liquidity and Capital Resources

The Company's working capital at February 2, 2003 was \$145.2 million compared with \$142.0 million at November 3, 2002. Cash, cash equivalents and short-term investments at February 2, 2003 were \$107.3 million compared to \$129.1 million at November 3, 2002. Cash used in operating activities was \$6.8 million for the quarter ended February 2, 2003 as compared to \$22.8 million provided by operating activities for the same period last year. This decrease was primarily due to the net loss incurred and the timing of progress payments to vendors, primarily for equipment which was accrued for at November 3, 2002. Cash used in investing activities was \$9.4 million, primarily comprised of capital expenditures, for the quarter ended February 2, 2003 as compared to \$36.4 million for the same period last year. The Company expects capital expenditures for 2003 to be approximately \$60.0 million. Cash used in financing activities was \$7.5 million for the quarter ended February 2, 2003 as compared to \$134.0 million provided by financing activities for the same period last year. This decrease was primarily due from proceeds from the issuance of convertible debt of \$193.4 million, offset by the repayment of the Company's previous line of credit of \$57.7 million in the first quarter of last year.

In July 2002, the Company entered into a credit agreement with a group of financial institutions that provides for a three-year, revolving credit facility (the "credit facility") with an aggregate commitment of \$100 million. The credit facility, which allows for borrowings in various currencies, includes a provision for an increase in the aggregate commitment up to \$125 million upon the conversion of at least 50% of the Company's \$103 million, 6% outstanding convertible notes. The applicable interest rate spread and facility fee vary based upon the Company's senior leverage ratio. The Company is subject to compliance with and maintenance of certain financial and other covenants. The credit facility is secured by a pledge of the Company's stock in certain of its subsidiaries. On February 3, 2003 the credit facility was amended to modify certain covenants and definitions. Under the amended credit agreement the Company is required to maintain cash and permitted investments, as defined, less any borrowings under the credit facility (\$11.2 million at February 2, 2003) of at least \$65 million.

The Company's commitments represent investments in additional manufacturing capacity as well as advanced equipment for the production of high-end photomasks. At February 2, 2003, Photronics had commitments outstanding for capital expenditures of approximately \$28.0 million. Additional commitments for capital expenditures are expected to be incurred during the remainder of fiscal 2003. 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.

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### Contractual Cash Obligations and Other Commercial Commitments and Contingencies

The following tables quantify the Company's future contractual obligations and commercial commitments as of February 2, 2003 (in millions):

#### Contractual Obligations

	Payments Due in Fiscal				
	Total	2003	2004 & 2005	2006 & 2007	Thereafter
Long-term debt	\$301.3	\$ 9.3	\$ 89.8	\$202.2	\$ -
Operating leases	8.4	1.9	3.6	2.0	0.9
Unconditional purchase obligations	41.4	31.9	7.6	1.9	-
Total	\$351.1	\$43.1	\$101.0	\$206.1	\$0.9

#### Other Commercial Commitments

	Amounts Expiring in Fiscal				
	Total	2003	2004 & 2005	2006 & 2007	Thereafter

Standby letters of credit	\$5.8	\$5.8	-	-	-
Total	\$5.8	\$5.8	-	-	-

## Application of Critical Accounting Policies

The Company's condensed 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 our accounting policies that affect its financial condition and results of operations.

### *Consolidation*

The condensed consolidated financial statements include the accounts of Photronics, Inc. and its majority-owned subsidiaries ("Photronics" or the "Company"), in which the Company exercises control. All significant intercompany balances and transactions have been eliminated in consolidation.

### *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. Actual results may differ from such estimates.

### *Derivative Investments and Hedging Activities*

The Company records derivatives on the condensed consolidated balance sheets as assets or liabilities, measured at fair value. Gains or losses resulting from changes in the values of those derivatives are reported in the condensed consolidated statements of operations 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

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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.

### *Property, Plant and Equipment*

Property, plant and equipment is 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 eliminated from the accounts, and any resulting gain or loss is reflected in income.

For financial reporting purposes, 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.

### *Income Taxes*

The provision for income taxes is computed on the basis of condensed consolidated financial statement income or loss. Deferred income taxes reflect the tax effects of differences between the carrying amounts of assets and liabilities for financial reporting and the amounts used for income tax purposes.

### *Foreign Currency Translation*

The Company's foreign subsidiaries maintain their accounts in their respective local currencies. Assets and liabilities of such subsidiaries are translated to U.S. dollars at year-end exchange rates. Income and expenses are translated at average rates of exchange prevailing during the year. Foreign currency translation adjustments are accumulated and reported as other comprehensive income (loss) as a separate component of shareholders' equity. The effects of changes in exchange rates on foreign currency transactions are included in income.

### *Revenue Recognition*

The Company recognizes revenue upon shipment of goods to customers.

## Effect of New Accounting Standards

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 143, "Accounting for Asset Retirement Obligations." SFAS No. 143 supersedes previous guidance for financial accounting and reporting for obligations associated with the retirement of tangible long-lived assets and the associated asset retirement costs. This statement applies to legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and (or) the normal operation of a long-lived asset.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets." SFAS No. 144 supersedes previous guidance for financial accounting and reporting for the impairment or disposal of long-lived assets.

In June 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities". SFAS No. 146 nullifies Emerging Issues Task Force Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)."

In December 2002, the FASB issued SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure, an Amendment of FASB Statement No. 123." SFAS No. 148 requires quarterly disclosure of pro forma stock compensation information.

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In November 2002, the FASB issued FASB Interpretation ("FIN") No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others." FIN No. 45 clarifies and expands existing disclosure requirements for guarantees, including loan guarantees.

In January 2003, the FASB issued FIN No. 46, "Consolidation of Variable Interest Entities - an Interpretation of Accounting Research Bulletin No. 51." FIN No. 46 clarifies rules for consolidation of special purpose entities.

SFAS No.'s 143, 144, 146 and 148 and FIN No's. 45 and 46 become effective for the Company's financial statements for fiscal year 2003. The Company does not expect the adoption of these statements to have a material impact on its consolidated financial position, consolidated results of operations or consolidated cash



flows.

### 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 condensed consolidated statement of operations 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 (the "Contract"), which effectively converted \$100 million of its 4.75% fixed rate convertible notes to a variable rate. Contract payments are made on a LIBOR based variable rate (2.67% at February 2, 2003) and are received at the 4.75% fixed rate.

The 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 changes in the fair value of the Company's fixed rate debt obligation. Accordingly, the Contract has been reflected at fair value in the Company's consolidated balance sheet 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 statement of operations. 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.

#### 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, gross margins and retained earnings. The Company attempts to minimize currency exposure risk by producing its products in the same country or region in which the products are sold and thereby generating revenues and incurring expenses in the same currency and by managing its working capital; there can be no assurance that this approach will be successful, especially in the event of a significant and sudden decline in the value of any of the international currencies of the Company's worldwide operations. The Company does not engage in purchasing forward exchange contracts for speculative purposes. The Company does not believe that a 10% change in exchange rates would have a material effect on its consolidated financial position, results of operations or cash flows.

#### Interest Rate Risk

The majority of the Company's borrowings are in the form of its convertible subordinated notes, which bear interest rates ranging from 4.75% to 6.0% and certain foreign secured and unsecured notes payable which bear interest between approximately 2.5% and 6.7%. In addition, the interest rate swap contract discussed above subjects the Company to market risk as interest rates fluctuate and impact the interest payments due on the \$100 million notional amount of the contract. The Company does not expect changes in interest rates to have a material effect on income or cash flows in 2003 although there can be no assurances that interest rates will not change significantly. The Company does not believe that a

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10% change in interest rates would have a material effect on its consolidated financial position, results of operations or cash flows.

### Item 4 - CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

Within the 90 days prior to the date of this report, the Company performed an evaluation, under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures. The Company's disclosure controls and procedures are designed to ensure that information required to be disclosed by the Company in its periodic SEC filings is recorded, processed and reported within the time periods specified in the SEC's rules and forms. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective.

#### Changes in Internal Controls

There were no significant changes in the Company's internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation.

## PART II. OTHER INFORMATION

### Item 6. Exhibits and Report on Form 8-K

#### (a) Exhibits

##### Exhibits

<u>Index</u>	<u>Description</u>
--------------	--------------------

- |      |   |
|------|---|
| 10.1 | First Amendment Agreement Dated as of February 3, 2003 among Photronics, Inc., The Borrowing Subsidiaries Party Hereto, The Guarantors Party Hereto, The Lenders Party Hereto and JPMorgan Chase Bank, as Administrative Agent. |
| 10.2 | Employment Agreement between the Company and Daniel Del Rosario dated February 20, 2003.  |
| 10.3 | Employment Agreement between the Company and Paul J. Fego dated February 20, 2003.  |
| 10.4 | Employment Agreement between the Company and James G. Hickey, Jr. dated February 20, 2003.  |
| 10.5 | Employment Agreement between the Company and Sean T. Smith dated February 20, 2003.   |
| 99.1 | Certification of the Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.   |
| 99.2 | Certification of the Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.   |

**(b) Report on Form 8-K**

(i) Form 8-K dated February 25, 2003

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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

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

Date: March 17, 2003

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**CERTIFICATIONS**

I, Daniel Del Rosario:

1. I have reviewed this quarterly report on Form 10-Q of Photronics, Inc.
2. Based on my knowledge, this quarterly 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 quarterly report.
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 quarterly report.
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
  - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date.
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls.
6. The registrants other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

March 17, 2003

/s/ DANIEL DEL ROSARIO

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Daniel Del Rosario

I, Sean T. Smith, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Photonics, Inc.
2. Based on my knowledge, this quarterly 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 quarterly report.
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 quarterly report.
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
  - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date.
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls.
6. The registrants other certifying officers and I have indicated in this quarterly report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

March 17, 2003

/s/ SEAN T. SMITH

\_\_\_\_\_  
Sean T. Smith  
Chief Financial Officer

# FIRST AMENDMENT AGREEMENT

Dated as of February 3, 2003

among

PHOTRONICS, INC.

The Borrowing Subsidiaries Party Hereto

The Guarantors Party Hereto

The Lenders Party Hereto

and

JPMORGAN CHASE BANK,  
as Administrative Agent

FIRST AMENDMENT AGREEMENT, dated as of February 3, 2003, among PHOTRONICS, INC., a Connecticut corporation (the "Company"), the BORROWING SUBSIDIARIES party hereto, the GUARANTORS party hereto, the LENDERS party hereto, and JPMORGAN CHASE BANK, as Administrative Agent.

WHEREAS, the Company, the Borrowing Subsidiaries, the Lenders and the Administrative Agent have entered into that certain Credit Agreement dated as of July 12, 2002 (as in effect prior to the effectiveness of this Agreement, the "Existing Credit Agreement," and, as amended by this Agreement, the "Amended Credit Agreement"), pursuant to which the Lenders have agreed, subject to the terms and conditions therein set forth, to make or participate in Loans to, and to issue or participate in Letters of Credit for the account of, the Borrowers;

WHEREAS, the Guarantors have entered into a Guarantee Agreement, pursuant to which the Guarantors have agreed to guaranty the obligations of the Loan Parties under the Existing Credit Agreement and the other Loan Documents;

WHEREAS, the Company, the Borrowing Subsidiaries, the Guarantors, the Lenders and the Administrative Agent have agreed to enter into this Agreement to provide for, among other things, the modification of certain covenants and definitions; and

WHEREAS, the Loan Documents (including, without limitation, this Agreement and the Amended Credit Agreement), as amended and supplemented by this Agreement and as each may be amended or supplemented from time to time, are referred to herein as the "Amended Loan Documents";

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### Amendments to Existing Credit Agreement

Each of the Borrowers and, subject to the satisfaction of the conditions set forth in Article III, the Lenders hereby consents and agrees to the amendments to the Existing Credit Agreement set forth below:

(a) The definition of "Applicable Rate" contained in Section 1.01 of the Existing Credit Agreement is hereby amended to substitute (i) "1.400%" in place of "1.150%", (ii) "1.300%" in place of "1.050%" and (iii) "1.200%" in place of ".950%".

(b) The definition of "Consolidated EBITDA" contained in Section 1.01 of the Existing Credit Agreement is hereby amended to insert ", plus (e) the aggregate amount of noncash restructuring charges taken during the fiscal quarter ending on November 3, 2002 in connection with the closure of a manufacturing facility located in Milpitas, California and related North American manufacturing network consolidation and reduction-in-workforce up to \$10,500,000" immediately subsequent to "\$5,000,000".

(c) Section 6.15 of the Existing Credit Agreement is amended and restated to read as follows:

SECTION 6.15. Leverage Ratio. So long as any of the 6% Subordinated Notes is outstanding, the Company will not permit the Leverage Ratio as determined as of the end of each fiscal quarter of the Company to be greater than the applicable ratio set forth in the following table:

<b>If such fiscal quarter ends on:</b>	<b>Applicable Ratio</b>
July 31, 2002	3.75 to 1.00
November 3, 2002	3.50 to 1.00
February 2, 2003, May 4, 2003, August 3, 2003 or November 2, 2003	3.75 to 1.00
February 1, 2004	3.50 to 1.00
May 2, 2004	3.25 to 1.00
August 1, 2004	3.00 to 1.00
October 31, 2004	2.75 to 1.00
January 30, 2005 or thereafter	2.50 to 1.00

(d) Section 6.16 of the Existing Credit Agreement is hereby amended to substitute (i) "February 2, 2003" in place of "January 31, 2003", (ii) "May 4, 2003" in place of "April 30, 2003", (iii) "August 3, 2003" in place of "July 31, 2003" and (iv) "November 2, 2003" in place of "October 31, 2003".

(e) Section 6.17 of the Existing Credit Agreement is amended and restated to read as follows:

SECTION 6.17. Senior Leverage Ratio. The Company will not permit the Senior Leverage Ratio as determined as of the end of each fiscal quarter of the Company to be greater than the applicable ratio set forth in the following table:

If such fiscal quarter ends on:	Applicable Ratio
July 31, 2002 or November 3, 2002	1.25 to 1.00
February 2, 2003, May 4, 2003, August 3, 2003 or November 2, 2003	0.75 to 1.00
February 1, 2004 or thereafter	1.00 to 1.00

(f) Section 6.18 of the Existing Credit Agreement is hereby amended and restated to read as follows:

SECTION 6.18. Minimum Cash Balances. The Company will not permit the aggregate amount of Permitted Investments minus outstanding Loans to be less than \$65,000,000 at any time.

(g) The Existing Credit Agreement is hereby amended to add new Section 6.19 to read as follows:

SECTION 6.19. Fiscal Year. The Company shall not change its fiscal year from the annual period which ends on the Sunday closest to October 31 or its fiscal quarters which, during the term of this Agreement, consist of four equal 13 week periods.

## ARTICLE II

### Representations and Warranties

Each Borrower (as to itself and its subsidiaries) hereby represents and warrants that as of the Effective Date (as defined in Article III of this Agreement):

Section 2.01. Existing Representations and Warranties. Each of the representations and warranties contained in Article III of the Existing Credit Agreement and in each of the other Loan Documents is true and correct, except that any representation or warranty limited by its terms to a specific date shall be true and correct as of such specific date.

Section 2.02. No Defaults. No event has occurred and no condition exists which would constitute a Default or an Event of Default as defined in the Existing Credit Agreement, and no event has occurred and no condition exists which would constitute a Default or an Event of Default as defined in the Amended Credit Agreement.

Section 2.03. Power and Authority; No Conflicts. The execution, delivery and performance by each of the Loan Parties of the Amended Loan Documents to which it is a party are within such Loan Party's corporate, partnership or limited liability company powers and have been duly authorized by all necessary corporate, partnership or limited liability company and, if required, stockholder, partner or member action. Each Amended Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and constitutes a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 2.04. Governmental Approvals; No Conflicts. The execution, delivery and performance by each of the Loan Parties of the Amended Loan Documents to which it is a party (a) do not require the Company or any Subsidiary to obtain or make any consent or approval of, registration or filing with, or other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect or that could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (b) will not violate any law or regulation applicable to the Company or any Subsidiary, or the charter, by-laws or other organizational documents of the Company or any Subsidiary, or any order of any Governmental Authority applicable to the Company or any Subsidiary, except as to any law, regulation or order the violation of which could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Company or any Subsidiary or their respective assets, or give rise to a right thereunder to require any payment to be made by the Company or any of its Subsidiaries, except for any such violations, defaults or rights to require payment that could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, and (d) will not result in the creation or imposition of any Lien on any asset of the Company or any of its Subsidiaries.

Section 2.05. Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders the consolidated balance sheets of the Company and its consolidated Subsidiaries and the related statements of income, stockholders equity and cash flows (i) as of and for the fiscal years ended October 31, 2001, October 31, 2000 and October 31, 1999, such consolidated financial statements being reported on by Deloitte & Touche LLP, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended July 31, 2002, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial condition and results of operations and cash flows of the Company and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Since July 31, 2002, there has been no material adverse change (other than the financial performance of the Company and the Subsidiaries in the fourth quarter of fiscal 2002, which has been previously publicly disclosed) in the business, assets, operations, prospects or condition, financial or otherwise, of the Company and the Subsidiaries, taken as a whole.

## ARTICLE III

### Conditions Precedent

The effectiveness of this Agreement is subject to the condition precedent that the Administrative Agent and the Lenders shall have received on or before February 5, 2003 (the "Effective Date") each of the following, in form and substance satisfactory to the Administrative Agent and the Required Lenders:

(a) counterparts of this Agreement executed by each of the Company, the Borrowing Subsidiaries, the Guarantors, the Administrative Agent and the Required Lenders;

(b) a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of James Eder, Esq., counsel for the Loan Parties, substantially in the form of **Exhibit A**; the Company hereby requests such counsel to deliver such opinion;

(c) such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the authorization of the execution, delivery and performance by each Loan Party of the Amended Loan Documents to which it is a party; and

(d) evidence that all fees and other amounts required to be paid under Section 4.04 of this Agreement shall have been paid in full.

## ARTICLE IV

### Miscellaneous

Section 4.01. Defined Terms. Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Existing Credit Agreement.

Section 4.02. Nonwaiver. The terms of this Agreement shall not operate as a waiver by the Administrative Agent, the Issuing Bank or any Lender of, or otherwise prejudice the rights, remedies or powers of the Administrative Agent, the Issuing Bank or any Lender under, the Amended Credit Agreement, under any other Amended Loan Document or under applicable law. Except as set forth in Article I: (i) no terms and provisions of the Loan Documents are modified or changed by this Agreement; and (ii) the terms and provisions of the Loan Documents shall continue in full force and effect.

Section 4.03. Waivers; Amendments. Any provision of this Agreement may be amended or modified only by an agreement or agreements in writing signed by the Company and the Required Lenders, or by the Company and the Administrative Agent acting with the consent of the Required Lenders; provided that the consent of each Lender shall be required with respect to any matters as to which such Lender's consent is required under Section 10.02(b) of the Amended Credit Agreement.

Section 4.04. Fees and Expenses. The Company agrees to pay on the Effective Date to the Administrative Agent, for the account of each Lender who executes this Agreement, an amendment fee equal to .10% of such Lender's Commitment. The Company shall pay all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the preparation and administration of this Agreement, the other Amended Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated).

Section 4.05. Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by teletype in accordance with the terms of the Amended Credit Agreement.

Section 4.06. Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 4.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 4.08. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The Amended Loan Documents and the separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter thereof. Subject to the satisfaction of the conditions set forth in Article III of this Agreement, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the Company, the Borrowing Subsidiaries, the Guarantors and the Required Lenders, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by teletype shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 4.09. Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of New York.

Section 4.10. Reaffirmation. Each of the Loan Parties hereby unconditionally and absolutely affirms its obligations under each Loan Document to which it is a party, as herein modified and increased, and agrees that such obligations are valid and binding upon it, and enforceable against it, without defense, offset or counterclaim and hereby acknowledges and consents to, and waives all objections to, all of the transactions contemplated by or consented to under or in connection with this Agreement.

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

**COMPANY:**

PHOTRONICS, INC., a Connecticut corporation

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

**BORROWING SUBSIDIARIES:**

PHOTRONICS (UK) LIMITED,  
a United Kingdom corporation

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

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

PKL, LTD., a Korean corporation

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

PHOTRONICS SEMICONDUCTOR MASK  
CORPORATION, a Republic of China corporation

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

**GUARANTORS:**

PHOTRONICS CALIFORNIA, INC.,  
a California corporation

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

PHOTRONICS TEXAS, INC.,  
a Texas corporation

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

PHOTRONICS TEXAS I, LLC,  
a Texas limited liability company

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

PHOTRONICS TEXAS, I, L.P.,  
a Texas limited partnership

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

PHOTRONICS INVESTMENT SERVICES, INC.,  
a Nevada corporation

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

PHOTRONICS-TOPPAN TEXAS, INC.,  
a Texas corporation

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

PHOTRONICS TEXAS II, LLC,  
a Texas limited liability company

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

PHOTRONICS TEXAS II, L.P.,  
a Texas limited partnership

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

PHOTRONICS ARIZONA, INC.,  
an Arizona corporation

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

ALIGN-RITE INTERNATIONAL, INC.,  
a California corporation

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

**LENDERS:**

JPMORGAN CHASE BANK, individually and as Administrative Agent

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

HSBC BANK USA

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

THE BANK OF NEW YORK

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

FLEET NATIONAL BANK

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

CITIZENS BANK OF MASSACHUSETTS

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

**LOCAL FRONTING LENDERS:**

JPMORGAN CHASE BANK, SEOUL BRANCH

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

JPMORGAN CHASE BANK, TAIPEI BRANCH

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





## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of February 20, 2003 by and between Photronics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 1061 East Indiantown Road, Jupiter, Florida 33477 and Daniel Del Rosario ("Executive") residing at 8 Emerald Glen, Laguna Niguel, California, 92677.

### WITNESSETH:

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

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

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

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

### **3. Duties and Responsibilities.**

(a) Executive shall serve as the Chief Executive Officer of the Company. In the performance of Executive's duties, Executive shall report directly to the Board of Directors and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the Board of Directors.

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

### **4. Compensation.**

(a) Base Compensation. During the Term, the Company agrees to pay Executive a base salary at the rate of \$350,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "Base Salary"). All payments required hereunder, including the payments required by this Section 4(a), may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

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

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

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

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

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

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

### (b) Death or Disability of Executive.

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

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

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

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

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

### (c) Termination for Cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notwithstanding any other provision of this Section 5, (i) the Company, upon thirty (30) days advance notice to Executive, shall have the right to terminate Executive's employment with the Company without Cause at any time, including, without limitation, in connection expiration of the Term and (ii) Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

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

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

(2) A payment ("Severance Payment") equal to twelve (12) months of Executive's current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) To the extent permitted by applicable law and the terms of the plans, the continuation of medical and dental plan benefits for a period of three hundred sixty (360) days ("Benefit Period"), provided that Executive shall be required to make all required contributions to such plans as Executive did prior to the date of termination date. Subsequent to the Benefit Period, Executive will be eligible to continue medical insurance coverage for any remaining period required under COBRA.

(iii) As used in this Agreement, the term "Good Reason" shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company's principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) any reduction in salary or benefits contrary to this Agreement, without the consent of Executive.

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

(e) Change of Control.

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

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

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

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

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

(ii) For the purposes of this Section 5(e), the term "Good Reason" shall mean the relocation of the Company's principal executive offices to a location which is more than fifty (50) miles from its then-current location without the consent of Executive.

(iii) In the event Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof, but including a resignation for Good Reason as defined in Section 5(e) (ii)), during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(iii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

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

(f) Tax Consideration.

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

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

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

(g) Treatment of Stock Options Upon a Termination.

(i) If this Agreement is terminated pursuant to clause (e) of this Section 5, all stock options or similar rights granted to Executive pursuant to the Company's stock option plans shall immediately vest as of the date of termination and Executive may exercise any such vested stock options for a period of 390 days following such termination, but in no event later than ten (10) years after grant.

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

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

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

(h) Status of Executive During Exclusivity Period. If this Agreement is terminated pursuant to clauses (a), (b), or (d) of this Section 5, during Executive's Exclusivity Period the Executive shall be deemed and treated as an employee of the Company for the purposes of all payroll, benefits, welfare and stock option plans.

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

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

**7. Confidential Information.**

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

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

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

(a) Acquire any controlling ownership interest in or engage, directly or indirectly, for themselves or as agent, consultant, employee or otherwise, in any business which is competitive with or damaging to the business of the Company or any subsidiary of the Company, whether such business is now owned or hereafter organized or acquired;

(b) Undertake the planning for or organization of, directly or indirectly, alone or in combination with any person or entity any business activity which is competitive with or damaging to the business of the Company or any subsidiary of the Company;

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

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

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

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

## **9. Intellectual Property.**

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

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

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

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

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

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

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

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

Attention: Corporate Secretary

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

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

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

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

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

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

**20. Attorneys' Fees.** If any litigation shall occur between Executive and the Company which litigation arises out of or as a result of this Agreement or the acts of the parties hereto pursuant to this Agreement, or which seeks an interpretation of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of such litigation, including reasonable attorneys' fees and costs.

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

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

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

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

## **THE COMPANY**

PHOTRONICS, INC.

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

## **EXECUTIVE**

/s/ DANIEL DEL ROSARIO  
Name: Daniel Del Rosario  
Address: 8 Emerald Glen  
Laguna Niguel  
California, 92677

RELEASE

1. I signed an Employment Agreement with Photonics, Inc. (the "Company"), dated February 20, 2003 (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.

2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under the Agreement. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any state or federal civil rights or human rights law, or under the Federal Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"). By signing this Release, I hereby acknowledge and confirm the following: (a) I was advised in writing by the Company in connection with my termination to consult with an attorney of my choice prior to signing this Agreement, including without limitation, the terms relating to my release of claims arising under ADEA and any other law, rule or regulation referred to above; (b) I was given a period of not fewer than 21 days to consider the terms of this Agreement and to consult with an attorney of my choosing with respect hereto; and (c) I am providing the release and discharge set forth in this paragraph only in exchange for consideration in addition to anything of value to which I was already entitled.

3. The Agreement and this Release may be revoked by me within the 7-day period commencing on the date I sign this Release (the "Revocation Period"). In the event of any such revocation, all obligations of the Company under the Agreement will terminate and be of no further force and effect as of the date of such revocation and both the Company and I will have and be entitled to exercise all rights that would have existed had the Agreement and Release not been entered into. No such revocation will be effective unless it is in writing and signed by me and received by the Company prior to the expiration of the Revocation Period.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of February 20, 2003 by and between Photonics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 1061 East Indiantown Road, Jupiter, Florida 33477 and Paul J. Fego ("Executive") residing at 11 Sun Pond Lane, New Milford, Connecticut, 06776.

### WITNESSETH:

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

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

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

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

**3. Duties and Responsibilities.**

(a) Executive shall serve as the President and Chief Operating Officer of the Company. In the performance of Executive's duties, Executive shall report directly to the CEO and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the CEO.

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

**4. Compensation.**

(a) Base Compensation. During the Term, the Company agrees to pay Executive a base salary at the rate of \$300,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "Base Salary"). All payments required hereunder, including the payments required by this Section 4(a), may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

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

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

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

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

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

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

(b) Death or Disability of Executive.

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

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

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

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

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

(c) Termination for Cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notwithstanding any other provision of this Section 5, (i) the Company, upon thirty (30) days advance notice to Executive, shall have the right to terminate Executive's employment with the Company without Cause at any time, including, without limitation, in connection expiration of the Term and (ii) Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

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

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

(2) A payment ("Severance Payment") equal to twelve (12) months of Executive's current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) To the extent permitted by applicable law and the terms of the plans, the continuation of medical and dental plan benefits for a period of three hundred sixty (360) days ("Benefit Period"), provided that Executive shall be required to make all required contributions to such plans as Executive did prior to the date of termination date. Subsequent to the Benefit Period, Executive will be eligible to continue medical insurance coverage for any remaining period required under COBRA.

(iii) As used in this Agreement, the term "Good Reason" shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company's principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) any reduction in salary or benefits contrary to this Agreement, without the consent of Executive.

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

(e) Change of Control.

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

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

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

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

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

(ii) For the purposes of this Section 5(e), the term "Good Reason" shall mean the relocation of the Company's principal executive offices to a location which is more than fifty (50) miles from its then-current location without the consent of Executive.

(iii) In the event Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof, but including a resignation for Good Reason as defined in Section 5(e) (ii)), during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(iii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

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

(f) Tax Consideration.

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

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

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

(g) Treatment of Stock Options Upon a Termination.

(i) If this Agreement is terminated pursuant to clause (e) of this Section 5, all stock options or similar rights granted to Executive pursuant to the Company's stock option plans shall immediately vest as of the date of termination and Executive may exercise any such vested stock options for a period of 390 days following such termination, but in no event later than ten (10) years after grant.

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

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

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

(h) Status of Executive During Exclusivity Period. If this Agreement is terminated pursuant to clauses (a), (b), or (d) of this Section 5, during Executive's Exclusivity Period the Executive shall be deemed and treated as an employee of the Company for the purposes of all payroll, benefits, welfare and stock option plans.

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

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

**7. Confidential Information.**

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

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

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

(a) Acquire any controlling ownership interest in or engage, directly or indirectly, for themselves or as agent, consultant, employee or otherwise, in any business which is competitive with or damaging to the business of the Company or any subsidiary of the Company, whether such business is now owned or hereafter organized or acquired;

(b) Undertake the planning for or organization of, directly or indirectly, alone or in combination with any person or entity any business activity which is competitive with or damaging to the business of the Company or any subsidiary of the Company;

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

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

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

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

## **9. Intellectual Property.**

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

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

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

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

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

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

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

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

Attention: Corporate Secretary

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

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

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

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

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

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

**20. Attorneys' Fees.** If any litigation shall occur between Executive and the Company which litigation arises out of or as a result of this Agreement or the acts of the parties hereto pursuant to this Agreement, or which seeks an interpretation of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of such litigation, including reasonable attorneys' fees and costs.

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

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

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

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

## **THE COMPANY**

PHOTONICS, INC.

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

## **EXECUTIVE**

/s/ PAUL J. FEGO  
Name: Paul J. Fego  
Address: 11 Sun Pond Lane  
New Milford  
Connecticut, 06776

RELEASE

1. I signed an Employment Agreement with Photonics, Inc. (the "Company"), dated February 20, 2003 (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.

2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under the Agreement. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any state or federal civil rights or human rights law, or under the Federal Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"). By signing this Release, I hereby acknowledge and confirm the following: (a) I was advised in writing by the Company in connection with my termination to consult with an attorney of my choice prior to signing this Agreement, including without limitation, the terms relating to my release of claims arising under ADEA and any other law, rule or regulation referred to above; (b) I was given a period of not fewer than 21 days to consider the terms of this Agreement and to consult with an attorney of my choosing with respect hereto; and (c) I am providing the release and discharge set forth in this paragraph only in exchange for consideration in addition to anything of value to which I was already entitled.

3. The Agreement and this Release may be revoked by me within the 7-day period commencing on the date I sign this Release (the "Revocation Period"). In the event of any such revocation, all obligations of the Company under the Agreement will terminate and be of no further force and effect as of the date of such revocation and both the Company and I will have and be entitled to exercise all rights that would have existed had the Agreement and Release not been entered into. No such revocation will be effective unless it is in writing and signed by me and received by the Company prior to the expiration of the Revocation Period.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date



## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of February 20, 2003 by and between Photonics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 1061 East Indiantown Road, Jupiter, Florida 33477 and James G. Hickey, Jr. ("Executive") residing at 116 Westmont, West Hartford, Connecticut, 06117.

### WITNESSETH:

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

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

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

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

**3. Duties and Responsibilities.**

(a) Executive shall serve as the Vice President, Treasurer of the Company. In the performance of Executive's duties, Executive shall report directly to the CEO and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the CEO.

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

**4. Compensation.**

(a) Base Compensation. During the Term, the Company agrees to pay Executive a base salary at the rate of \$200,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "Base Salary"). All payments required hereunder, including the payments required by this Section 4(a), may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

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

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

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

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

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

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

(b) Death or Disability of Executive.

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

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

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

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

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

(c) Termination for Cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notwithstanding any other provision of this Section 5, (i) the Company, upon thirty (30) days advance notice to Executive, shall have the right to terminate Executive's employment with the Company without Cause at any time, including, without limitation, in connection expiration of the Term and (ii) Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

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

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

(2) A payment ("Severance Payment") equal to twelve (12) months of Executive's current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) To the extent permitted by applicable law and the terms of the plans, the continuation of medical and dental plan benefits for a period of three hundred sixty (360) days ("Benefit Period"), provided that Executive shall be required to make all required contributions to such plans as Executive did prior to the date of termination date. Subsequent to the Benefit Period, Executive will be eligible to continue medical insurance coverage for any remaining period required under COBRA.

(iii) As used in this Agreement, the term "Good Reason" shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company's principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) any reduction in salary or benefits contrary to this Agreement, without the consent of Executive.

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

(e) Change of Control.

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

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

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

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

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

(ii) For the purposes of this Section 5(e), the term "Good Reason" shall mean the relocation of the Company's principal executive offices to a location which is more than fifty (50) miles from its then-current location without the consent of Executive.

(iii) In the event Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof, but including a resignation for Good Reason as defined in Section 5(e) (ii)), during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(iii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

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

(f) Tax Consideration.

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

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

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

(g) Treatment of Stock Options Upon a Termination.

(i) If this Agreement is terminated pursuant to clause (e) of this Section 5, all stock options or similar rights granted to Executive pursuant to the Company's stock option plans shall immediately vest as of the date of termination and Executive may exercise any such vested stock options for a period of 390 days following such termination, but in no event later than ten (10) years after grant.

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

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

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

(h) Status of Executive During Exclusivity Period. If this Agreement is terminated pursuant to clauses (a), (b), or (d) of this Section 5, during Executive's Exclusivity Period the Executive shall be deemed and treated as an employee of the Company for the purposes of all payroll, benefits, welfare and stock option plans.

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

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

**7. Confidential Information.**

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

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

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

(a) Acquire any controlling ownership interest in or engage, directly or indirectly, for themselves or as agent, consultant, employee or otherwise, in any business which is competitive with or damaging to the business of the Company or any subsidiary of the Company, whether such business is now owned or hereafter organized or acquired;

(b) Undertake the planning for or organization of, directly or indirectly, alone or in combination with any person or entity any business activity which is competitive with or damaging to the business of the Company or any subsidiary of the Company;

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

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

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

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

## **9. Intellectual Property.**

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

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

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

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

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

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

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

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

Attention: Corporate Secretary

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

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

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

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

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

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

**20. Attorneys' Fees.** If any litigation shall occur between Executive and the Company which litigation arises out of or as a result of this Agreement or the acts of the parties hereto pursuant to this Agreement, or which seeks an interpretation of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of such litigation, including reasonable attorneys' fees and costs.

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

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

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

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

## **THE COMPANY**

PHOTONICS, INC.

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

## **EXECUTIVE**

/s/ JAMES G. HICKEY, JR.  
Name: James G. Hickey, Jr.  
Address: 116 Westmont  
West Hartford  
Connecticut, 06117

RELEASE

1. I signed an Employment Agreement with Photonics, Inc. (the "Company"), dated February 20, 2003 (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.

2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under the Agreement. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any state or federal civil rights or human rights law, or under the Federal Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"). By signing this Release, I hereby acknowledge and confirm the following: (a) I was advised in writing by the Company in connection with my termination to consult with an attorney of my choice prior to signing this Agreement, including without limitation, the terms relating to my release of claims arising under ADEA and any other law, rule or regulation referred to above; (b) I was given a period of not fewer than 21 days to consider the terms of this Agreement and to consult with an attorney of my choosing with respect hereto; and (c) I am providing the release and discharge set forth in this paragraph only in exchange for consideration in addition to anything of value to which I was already entitled.

3. The Agreement and this Release may be revoked by me within the 7-day period commencing on the date I sign this Release (the "Revocation Period"). In the event of any such revocation, all obligations of the Company under the Agreement will terminate and be of no further force and effect as of the date of such revocation and both the Company and I will have and be entitled to exercise all rights that would have existed had the Agreement and Release not been entered into. No such revocation will be effective unless it is in writing and signed by me and received by the Company prior to the expiration of the Revocation Period.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of February 20, 2003 by and between Photonics, Inc., a Connecticut corporation (the "Company"), having a principal place of business at 1061 East Indiantown Road, Jupiter, Florida 33477 and Sean T. Smith ("Executive") residing at 60 Whitney Ridge Terrace, North Haven, Connecticut, 06473.

### WITNESSETH:

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

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

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

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

**3. Duties and Responsibilities.**

(a) Executive shall serve as the Vice President, Chief Financial Officer of the Company. In the performance of Executive's duties, Executive shall report directly to the CEO and shall have such duties, responsibilities and authority as may from time to time be assigned to the Executive by the CEO.

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

**4. Compensation.**

(a) Base Compensation. During the Term, the Company agrees to pay Executive a base salary at the rate of \$210,000 per year payable in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time to time (the "Base Salary"). All payments required hereunder, including the payments required by this Section 4(a), may be allocated by the Company to one or more of its subsidiaries to which Executive renders services but the Company shall remain responsible for all payments hereunder and Executive shall have no obligation to seek payment from such subsidiaries.

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

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

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

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

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

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

(b) Death or Disability of Executive.

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

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

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

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

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

(c) Termination for Cause.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notwithstanding any other provision of this Section 5, (i) the Company, upon thirty (30) days advance notice to Executive, shall have the right to terminate Executive's employment with the Company without Cause at any time, including, without limitation, in connection expiration of the Term and (ii) Executive, upon thirty (30) days advance notice to the Company, shall have the right to resign for Good Reason.

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

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

(2) A payment ("Severance Payment") equal to twelve (12) months of Executive's current Base Salary. The Severance Payment shall be paid by the Company to Executive in equal installments in accordance with the Company's customary payroll practices generally applicable to similarly situated employees as may be in effect from time and shall be subject to statutory deductions and withholdings.

(3) To the extent permitted by applicable law and the terms of the plans, the continuation of medical and dental plan benefits for a period of three hundred sixty (360) days ("Benefit Period"), provided that Executive shall be required to make all required contributions to such plans as Executive did prior to the date of termination date. Subsequent to the Benefit Period, Executive will be eligible to continue medical insurance coverage for any remaining period required under COBRA.

(iii) As used in this Agreement, the term "Good Reason" shall mean (i) (except as set forth in Section 5(e)) the relocation of the Company's principal executive offices to a location outside the contiguous 48 United States without the consent of Executive or (ii) any reduction in salary or benefits contrary to this Agreement, without the consent of Executive.

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

(e) Change of Control.

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

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

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

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

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

(ii) For the purposes of this Section 5(e), the term "Good Reason" shall mean the relocation of the Company's principal executive offices to a location which is more than fifty (50) miles from its then-current location without the consent of Executive.

(iii) In the event Executive is terminated by the Company for any reason (other than for Cause as defined in Section 5(c) thereof, but including a resignation for Good Reason as defined in Section 5(e) (ii)), during the period three (3) months before or two (2) years following a "change in control" of the Company (or any successor), Executive shall be entitled to receive a cash payment equal to eighteen (18) months of Executive's current Base Salary and the benefits described in Section 5(d)(iii) of the Agreement. Upon such "change of control" during the Term, the Term of this Agreement shall automatically be the period equal to the longer of (i) two (2) years from the date of the "change of control" or (ii) the remaining period of the initial three (3) year Term after the "change of control". In no event shall Executive be entitled to receive both the Severance Payment described in Section 5(d) hereof and the "change of control" payment described in this Section 5(e).

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

(f) Tax Consideration.

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

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

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

(g) Treatment of Stock Options Upon a Termination.

(i) If this Agreement is terminated pursuant to clause (e) of this Section 5, all stock options or similar rights granted to Executive pursuant to the Company's stock option plans shall immediately vest as of the date of termination and Executive may exercise any such vested stock options for a period of 390 days following such termination, but in no event later than ten (10) years after grant.

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

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

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

(h) Status of Executive During Exclusivity Period. If this Agreement is terminated pursuant to clauses (a), (b), or (d) of this Section 5, during Executive's Exclusivity Period the Executive shall be deemed and treated as an employee of the Company for the purposes of all payroll, benefits, welfare and stock option plans.

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

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

**7. Confidential Information.**

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

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

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

(a) Acquire any controlling ownership interest in or engage, directly or indirectly, for themselves or as agent, consultant, employee or otherwise, in any business which is competitive with or damaging to the business of the Company or any subsidiary of the Company, whether such business is now owned or hereafter organized or acquired;

(b) Undertake the planning for or organization of, directly or indirectly, alone or in combination with any person or entity any business activity which is competitive with or damaging to the business of the Company or any subsidiary of the Company;

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

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

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

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

## 9. Intellectual Property.

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

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

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

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

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

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

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

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

Attention: Corporate Secretary

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

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

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

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

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

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

20. **Attorneys' Fees.** If any litigation shall occur between Executive and the Company which litigation arises out of or as a result of this Agreement or the acts of the parties hereto pursuant to this Agreement, or which seeks an interpretation of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of such litigation, including reasonable attorneys' fees and costs.

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

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

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

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

## THE COMPANY

PHOTRONICS, INC.

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

## EXECUTIVE

/s/ SEAN T. SMITH  
Name: Sean T. Smith  
Address: 69 Whitney Ridge Terrace  
North Haven  
Connecticut, 06473

RELEASE

1. I signed an Employment Agreement with Photonics, Inc. (the "Company"), dated February 20, 2003 (the "Agreement"), wherein I agreed to the terms applicable to certain terminations of employment with the Company. Pursuant to the terms of the Agreement, I am entitled to certain severance payments and benefits, described in the Agreement, provided that I sign this Release.

2. In consideration of the severance payments described in the Agreement, I, on behalf of myself, my heirs, agents, representatives, predecessors, successors and assigns, hereby irrevocably release, acquit and forever discharge the Company and each of its respective agents, employees, representatives, parents, subsidiaries, divisions, affiliates, officers, directors, shareholders, investors, employees, attorneys, transferors, transferees, predecessors, successors and assigns, jointly and severally (the "Released Parties") of and from any and all debts, suits, claims, actions, causes of action, controversies, demands, rights, damages, losses, expenses, costs, attorneys' fees, compensation, liabilities and obligations whatsoever, suspected or unsuspected, known or unknown, foreseen or unforeseen, arising at any time up to and including the date of this Release, save and except for the parties' obligations and rights under the Agreement. In recognition of the consideration set forth in the Agreement, I hereby release and forever discharge the Released Parties from any and all claims, actions and causes of action, I have or may have as of the date of this Release arising under any state or federal civil rights or human rights law, or under the Federal Age Discrimination in Employment Act of 1967, as amended, and the applicable rules and regulations promulgated thereunder ("ADEA"). By signing this Release, I hereby acknowledge and confirm the following: (a) I was advised in writing by the Company in connection with my termination to consult with an attorney of my choice prior to signing this Agreement, including without limitation, the terms relating to my release of claims arising under ADEA and any other law, rule or regulation referred to above; (b) I was given a period of not fewer than 21 days to consider the terms of this Agreement and to consult with an attorney of my choosing with respect hereto; and (c) I am providing the release and discharge set forth in this paragraph only in exchange for consideration in addition to anything of value to which I was already entitled.

3. The Agreement and this Release may be revoked by me within the 7-day period commencing on the date I sign this Release (the "Revocation Period"). In the event of any such revocation, all obligations of the Company under the Agreement will terminate and be of no further force and effect as of the date of such revocation and both the Company and I will have and be entitled to exercise all rights that would have existed had the Agreement and Release not been entered into. No such revocation will be effective unless it is in writing and signed by me and received by the Company prior to the expiration of the Revocation Period.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date



**EXHIBIT 99.1**

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

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

- (1) the Quarterly Report on Form 10-Q of the Company for the quarterly period ended February 2, 2003 (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.

Date: March 17, 2003

/s/ DANIEL DEL ROSARIO

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Daniel Del Rosario  
Chief Executive Officer

**EXHIBIT 99.2**

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

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 quarterly period ended February 2, 2003 (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.

Date: March 17, 2003

/s/ SEAN T. SMITH

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**Sean T. Smith**  
Chief Financial Officer

