

PHOTRONICS INC

FORM 10-K (Annual Report)

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Address	15 SECOR ROAD PO BOX 5226 BROOKFIELD, CT 06804
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Industry	Photography
Sector	Consumer Cyclical
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended November 3, 2013

OR

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

Commission file number 0-15451



PHOTRONICS, INC.

(Exact name of registrant as specified in its charter)

Connecticut

(State or other jurisdiction of incorporation or organization)

06-0854886

(IRS Employer Identification No.)

15 Secor Road, Brookfield, Connecticut

(Address of principal executive offices)

06804

(Zip Code)

Registrant's telephone number, including area code

(203) 775-9000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class
Common Stock, \$.01 par value

Name of each exchange on which registered
NASDAQ Global Select Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.
Yes No

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 period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).
Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes No

As of April 28, 2013, which was the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the shares of the registrant's common stock held by non-affiliates was approximately \$445,857,320 (based upon the closing price of \$7.49 per share as reported by the NASDAQ Global Select Market on that date).

As of December 27, 2013, 61,556,948 shares of the registrant's common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Proxy Statement for the 2014
Annual Meeting of Shareholders
to be held in April 2014

Incorporated into Part III
of this Form 10-K

Forward-Looking Statements

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

PART I

ITEM 1. BUSINESS

General

Photronics, Inc. is a Connecticut corporation, organized in 1969. Its principal executive offices are located at 15 Secor Road, Brookfield, Connecticut 06804, telephone (203) 775-9000. Photronics, Inc. and its subsidiaries are collectively referred to herein as "Photronics" or the "Company". The Company's website is located at <http://www.photronics.com>. The Company makes available, free of charge through its website, its annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 as soon as reasonably practicable after such materials are electronically filed or furnished to the Securities and Exchange Commission. The information contained or incorporated in the Company's website is not part of these documents.

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

Manufacturing Technology

The Company manufactures photomasks, which are used as masters to transfer circuit patterns onto semiconductor wafers and flat panel substrates. Photomasks are manufactured in accordance with circuit designs provided on a confidential basis by the Company's customers. IC and FPD photomask sets are manufactured in layers, each having a distinct pattern which is etched onto a different photomask. The resulting series of photomasks is then used to image the circuit patterns onto each successive layer of a semiconductor wafer or flat panel substrate. The typical manufacturing process for a photomask involves the receipt and conversion of circuit design data to manufacturing pattern data. A lithography system then exposes the circuit pattern onto the photomask blank. The exposed areas are developed and etched to produce that pattern on the photomask. The photomask is then inspected for defects and conformity to the customer's design data. After any defects are repaired, the photomask is cleaned using a proprietary process, any required pellicles (protective translucent cellulose membranes) are applied and, after final inspection, the photomask is shipped to the customer.

The Company currently supports customers across the full spectrum of IC production and FPD technologies by manufacturing photomasks using electron beam or optical (laser-based) technologies. Electron beam and laser-based systems are the predominant technologies used for photomask manufacturing. These technologies are capable of producing the finer line resolution, tighter overlay and larger die size for the larger and more complex circuits currently being designed. Electron beam and laser generated photomasks can be used to produce the most advanced semiconductors and FPDs for use in an array of products. However, in the case of IC production, electron beam technologies fabricate the large majority of critical layer photomasks. End markets served with IC photomasks include devices used for microprocessors, memory, telecommunications and related applications. The Company currently owns a number of high-end and mature electron beam and laser-based systems. Photomasks produced using laser-based systems are less expensive and less precise than those manufactured on high-end electron beam systems.

The first several layers of photomasks are sometimes required to be delivered by the Company within 24 hours from the time it receives customers' design data. The ability to manufacture high quality photomasks within short time periods is dependent upon robust processes, efficient manufacturing methods, high production yield and high equipment reliability. The Company works to meet these requirements by making significant investments in research and development, manufacturing, and data processing systems, and by utilizing statistical process control methods to optimize the manufacturing process and reduce cycle times.

Quality control is an integral part of the photomask manufacturing process. Photomasks are manufactured in temperature, humidity, and particulate controlled clean rooms because of the high level of precision, quality and manufacturing yield required. Each photomask is inspected several times during the manufacturing process to ensure compliance with customer specifications. The Company continues to make substantial investments in equipment to inspect and repair photomasks to ensure that customer specifications are met.

The majority of IC photomasks produced for the semiconductor industry employ geometries of 65 nanometers or larger. At these geometries, the Company can produce full lines of photomasks and there is no significant technology employed by the Company's competitors that is not also available to the Company. The Company is also capable of producing full lines of photomasks for high-end IC and FPD applications. In the case of ICs, this includes photomasks at and below the 45 nanometer technology node and, for FPDs, at and above the Generation 8 technology node and active-matrix organic light-emitting diode (AMOLED) display screens. The Company has access to technology and customer qualified manufacturing capability that allows it to compete in high-end markets, serving both IC and FPD applications.

Sales and Marketing

The market for photomasks primarily consists of domestic and international semiconductor and FPD manufacturers and designers, including a limited number of manufacturers who have the capability to internally manufacture photomasks. Photomasks are manufactured by independent merchant manufacturers like Photronics, and by semiconductor and FPD manufacturers that produce photomasks exclusively for their own use (captive manufacturers). Previously there was a trend towards the divestiture or closing of captive photomask operations by semiconductor manufacturers and an increase in the share of the market served by independent manufacturers. This trend was driven by the increased complexity and cost of capital equipment used in manufacturing photomasks and the lack of economy of scale for many semiconductor and FPD manufacturers to effectively utilize the equipment. However, more recently the remaining and largest captive mask facilities have started investing at faster rates than independent manufacturers to capture certain roadmap requirements. Nevertheless, most captives maintain business and technology relationships with independent photomask manufacturers for ongoing support.

Generally, the Company and each of its customers engage in a qualification and correlation process before the Company becomes an approved supplier. Thereafter, the Company typically negotiates pricing parameters for a customer's orders based on the customer's specifications. Some prices may remain in effect for an extended period of time. In some instances, the Company enters into sales arrangements with an understanding that, as long as the Company's performance is competitive, the Company will receive a specified percentage of that customer's photomask requirements.

The Company conducts its sales and marketing activities primarily through a staff of full-time sales personnel and customer service representatives who work closely with the Company's management and technical personnel. In addition to the sales personnel at the Company's manufacturing facilities, the Company has sales offices in the United States, Europe and Asia.

The Company supports international customers through both its domestic and international facilities. The Company considers its presence in international markets to be an important factor in attracting new customers, providing global solutions to its customers, minimizing delivery time, and serving customers that utilize manufacturing foundries outside of the United States, principally in Asia. See Note 17 to the Company's consolidated financial statements for the amount of net sales and long-lived assets attributable to each of the Company's geographic areas of operations.

Customers

The Company primarily sells its products to leading semiconductor and FPD manufacturers. The Company's largest customers (listed alphabetically) during the fiscal year ended November 3, 2013 ("fiscal 2013") included the following:

ASML Holding NV	LG Electronics, Inc.
AU Optronics Corp.	Micron Technology, Inc.
Chimei Innolux Corporation	Nanya Technology Corporation
Dongbu HiTek Co. Ltd.	Novatek Microelectronics Corp., Ltd.
Global Foundries, Inc.	ON Semiconductor Corp.
Himax Display, Inc.	Samsung Electronics Co., Ltd.
Ili Technology Corp.	ST Microelectronics, Inc.
IM Flash Technologies, LLC	Texas Instruments Incorporated
Inotera Memories, Inc.	United Microelectronics Corp.
Jenoptik AG	X-FAB Silicon Foundries

During fiscal 2013, the Company sold its products and services to approximately 600 customers. Samsung Electronics Co., Ltd. accounted for approximately 18%, 22% and 20% of the Company's net sales in fiscal 2013, 2012, and 2011, respectively. This included sales of both IC and FPD photomasks. The Company's five largest customers, in the aggregate, accounted for approximately 43%, 43%, and 45% of net sales in fiscal 2013, 2012 and 2011, respectively. A significant decrease in the amount of sales to any of these customers could have a material adverse effect on the financial performance and business prospects of the Company.

Seasonality

The Company's quarterly revenues can be affected by the seasonal purchasing of its customers. The Company is typically impacted during its first quarter by the North American and European holiday periods, as some customers reduce their effective workdays and orders during this period. Additionally, the Company can be impacted during its first or second fiscal quarter by the Asian New Year holiday period, which also may reduce customer orders.

Research and Development

The Company conducts its primary research and development activities for IC photomasks at its MP Mask Technology Center, LLC ("MP Mask"), a joint venture with Micron Technology, Inc. ("Micron") and at its U.S. nanoFab, both of which are located in Boise, Idaho, and also at PK, Ltd. ("PKL"), its subsidiary in Korea, and at Photronics Semiconductor Mask Corporation ("PSMC"), one of its subsidiaries in Taiwan, and for FPD photomasks at PKL, and in site-specific research and development programs to support strategic customers. These research and development programs and activities are designed to advance the Company's leadership in technology and manufacturing efficiency. The Company also conducts application oriented research and development activities to support the early adoption of new photomask or supporting data and services technology into the customers' applications. Currently, research and development photomask activities for ICs are focused on 20 nanometer node and below, and for FPDs on Generation 8 resolution enhancement masks, substrates larger than Generation 8 and masks for AMOLED type displays. The Company believes these core competencies will continue to be a critical part of semiconductor and FPD manufacturing, as optical lithography continues to scale device capabilities at and below 45 nanometer and at and above Generation 8. The Company has incurred research and development expenses of \$20.8 million, \$19.4 million and \$15.5 million in fiscal 2013, 2012 and 2011, respectively. The Company believes that it owns, controls, or licenses valuable proprietary information that is necessary for its business as it is presently conducted. This includes trade secrets as well as patents. The Company also believes that its intellectual property and trade secret know-how will continue to be important to its maintaining technical leadership in the field of photomasks.

Patents and Trademarks

The Company has ownership interests in over 45 issued U.S. patents. The subject matter of these patents, which are registered in various countries, generally relates to the manufacture of IC photomasks or the use of photomasks to manufacture other products. The expiration dates of these patents range from 2018 to 2030. Additionally, pursuant to a technology license agreement with Micron, the Company has access to certain technology of Micron and MP Mask. The Company also has a number of trademarks and trademark registrations in the United States and in other countries.

While the Company believes that its intellectual property is and will continue to be, important to its technical leadership in the field of photomasks, its operations are not dependent on any one individual patent. The Company protects its intellectual property rights and proprietary processes by utilizing patents and non-disclosure agreements with employees, customers and vendors.

Materials, Supplies and Equipment

Raw materials used by the Company generally include: high precision quartz plates (including large area plates), which are used as photomask blanks and are primarily obtained from Japanese and Korean suppliers; pellicles and electronic grade chemicals, which are used in the manufacturing process; and compacts, which are durable plastic containers in which photomasks are shipped. These materials are generally sourced from several suppliers. The Company believes that its utilization of a select group of strategic suppliers enables it to access the most technologically advanced materials available. On an ongoing basis, the Company continues to consider additional supply sources.

The Company relies on a limited number of equipment suppliers to develop and supply the equipment used in the photomask manufacturing process. Although the Company has been able to obtain equipment on a timely basis, an inability to obtain equipment when required could adversely affect the Company's business and results of operations.

Backlog

The first several layers of a set of photomasks for a circuit pattern are often required to be shipped within 24 hours of receiving a customer's designs. Because of the short period between order and shipment dates (typically from 1 day to 2 weeks) for a significant amount of the Company's sales, the dollar amount of current backlog is not considered to be a reliable indicator of future sales volume.

Pending Merger of PSMC with DNP Photomask Technology Taiwan Co., LTD.

In November 2013 the Company announced that it had entered into an agreement to merge Photronics Semiconductor Mask Corporation (PSMC), its Taiwanese IC subsidiary, with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture which will operate under the name of Photronics DNP Mask Corporation (PDMC). The pending merger, which is a noncash transaction, would result in the Company owning 50.01% and DNP owning 49.99% of PDMC, whose financial results would be included in the Company's consolidated financial statements. The merger is subject to regulatory approvals and customary closing conditions, and is expected to be finalized during the first half of fiscal 2014.

International Operations

Sales from the Company's international operations were approximately 70%, 70%, and 69% of the Company's net sales in fiscal 2013, 2012 and 2011, respectively. The Company believes that its ability to serve international markets is enhanced by it having, among other things, a local presence in the markets that it serves. This requires a significant investment in financial, managerial, operational, and other resources.

Operations outside of the United States are subject to inherent risks, including fluctuations in exchange rates, political and economic conditions in various countries, unexpected changes in regulatory requirements, tariffs and other trade barriers, difficulties in staffing and managing international operations, longer accounts receivable collection cycles and potentially adverse tax consequences. These factors may have a material adverse effect on the Company's ability to generate sales outside of the United States and to deploy resources where they could otherwise be used to their greatest advantage and, consequently, may adversely affect its financial condition and results of operations. Note 17 of the notes to the Company's consolidated financial statements presents net sales and long-lived assets by geographic area.

Competition

The photomask industry is highly competitive and most of the Company's customers utilize multiple photomask suppliers. The Company's ability to compete depends primarily upon the consistency of its products' quality, timeliness of delivery, as well as pricing, technical capability and service, which the Company believes are the principal factors considered by customers in selecting their photomask suppliers. The Company also believes that proximity to customers is an important factor in certain markets where cycle time from order to delivery is critical. A few competitors have greater financial, technical, sales, marketing and other resources than the Company. An inability to meet these requirements could adversely affect the Company's financial condition, results of operations and cash flows. The Company believes that it is able to compete effectively because of its dedication to customer service, investment in state-of-the-art photomask equipment and facilities, and experienced technical employees.

The Company estimates that, for the types of photomasks it manufactures (IC and FPD), the size of the total market (captive and merchant) is approximately \$3.7 billion. Its competitors include Compugraphics, Inc., Dai Nippon Printing Co., Ltd., Hoya Corporation, SK-Electronics Co. Ltd., Taiwan Mask Corporation and Toppan Printing Co., Ltd. The Company also competes with semiconductor manufacturers' captive photomask manufacturing operations that supply photomasks for internal use and, in some instances, also for external customers and foundries. The Company expects to face continued competition which, in the past, has led to pressure to reduce prices. The Company believes the pressure to reduce prices has contributed to the decrease in the number of independent manufacturers, and expects such pressure to continue in the future.

Employees

As of November 3, 2013, the Company had approximately 1,300 employees. The Company believes it offers competitive compensation and other benefits and that its employee relations are good.

ITEM 1A. RISK FACTORS

The Company's dependency on the semiconductor industry, which as a whole is volatile, could have a negative material impact on its business.

The Company sells substantially all of its photomasks to semiconductor designers, manufacturers and foundries, as well as to other high performance electronics manufacturers. The Company believes that the demand for photomasks depends primarily on design activity rather than sales volume from products using photomask technologies. Consequently, an increase in semiconductor or FPD sales does not necessarily result in a corresponding increase in photomask sales. In addition, the reduced use of customized ICs, a reduction in design complexity, other changes in the technology or methods of manufacturing or designing semiconductors or a slowdown in the introduction of new semiconductor or FPD designs could reduce demand for photomasks even if the demand for semiconductors and FPDs increases. Further, advances in design and production methods for semiconductors and other high performance electronics could reduce the demand for photomasks. Historically, the semiconductor industry has been volatile, with sharp periodic downturns and slowdowns. These downturns have been characterized by, among other things, diminished product demand, excess production capacity and accelerated erosion of selling prices.

The Company's results may suffer if either the IC or FPD photomask market does not grow or if the Company is unable to serve these markets successfully. The Company believes that the demand for photomasks for both ICs and FPDs depends primarily on design activity and, to a lesser extent, upon an increase in the number of production facilities used to manufacture ICs or FPDs. As a result, an increase in IC or FPD sales will not necessarily lead to a corresponding increase in photomask sales. A slowdown in the development of new technologies for fabricating ICs or FPDs could reduce the demand for related photomasks even if the demand for ICs or FPDs increases.

The Company may incur future net losses.

Although the Company has been profitable since fiscal 2010, it has, in the past, incurred net losses. The net losses experienced in prior recent years were due, in part, to macroeconomic factors, which resulted in significant charges for restructurings and impairments of long-lived assets. The Company cannot provide assurance that it will not incur net losses in the future.

The Company's quarterly operating results fluctuate significantly and may continue to do so in the future.

The Company has experienced fluctuations in its quarterly operating results and anticipates that such fluctuations will continue and could intensify in the future. Fluctuations in operating results may result in volatility in the prices of the Company's common stock and financial instruments linked to the value of the Company's common stock. Operating results may fluctuate as a result of many factors, including the size and timing of orders and shipments, the loss of significant customers, changes in product mix, the flow of customer design releases, technological change, fluctuations in manufacturing yields, competition and general economic conditions. The Company operates in a high fixed cost environment and, should its revenues and asset utilization decrease, its operating margins could be negatively impacted.

The Company's customers generally order photomasks on an as-needed basis, and substantially all of the Company's net sales in any quarter are dependent on orders received during that quarter. Since the Company operates with little backlog and the rate of new orders may vary significantly from quarter-to-quarter, the Company's capital expenditures and, to some extent, expense levels are based primarily on sales forecasts. Consequently, if anticipated sales in any quarter do not occur when expected, capital expenditures and expense levels could be disproportionately high, and the Company's operating results would be adversely affected. Due to the foregoing factors, the Company believes that quarter-to-quarter comparisons of its operating results are not necessarily meaningful and that these comparisons cannot be relied upon as indicators of future performance. In addition, in future quarters the Company's operating results could be below the expectations of public market analysts and investors which, in turn, could materially adversely affect the market price of the Company's common stock.

The photomask industry is subject to rapid technological change and the Company might fail to remain competitive, which could have a material adverse effect on the Company's business and results of operations.

The photomask industry has been, and is expected to continue to be, characterized by technological change and evolving industry standards. In order to remain competitive, the Company will be required to continually anticipate, respond to and utilize changing technologies of increasing complexity in both traditional and emerging markets that it serves. In particular, the Company believes that, as semiconductor geometries continue to become smaller and FPDs become larger with improved performance, it will be required to manufacture increasingly complex photomasks. Additionally, the demand for photomasks has been, and could in the future be, adversely affected by changes in semiconductor and high performance electronics fabrication methods that affect the type or quantity of photomasks utilized, such as changes in semiconductor demand that favor field programmable gate arrays and other semiconductor designs that replace application-specific ICs. Furthermore, increased market acceptance of alternative methods of transferring IC designs onto semiconductor wafers could reduce or eliminate the need for photomasks in the production of semiconductors. As of the end of fiscal 2013, one alternative method, direct-write lithography, has not been proven to be a commercially viable alternative to photomasks, as it is considered to be too slow for high volume semiconductor wafer production. However, should direct-write or any other alternative method of transferring IC designs to semiconductor wafers without the use of photomasks achieve market acceptance, and if the Company is unable to anticipate, respond to or utilize these or other technological changes, due to resource, technological or other constraints, its business and results of operations could be materially adversely affected.

The Company's operations will continue to require substantial capital expenditures, for which it may be unable to obtain funding.

The manufacture of photomasks requires substantial investments by the Company in high-end manufacturing capability. The Company expects that it will be required to continue to make substantial capital expenditures to meet the technological demands of its customers and to position itself for future growth. The Company's capital expenditure payments for fiscal 2014 are expected to be in the range of \$70 million to \$90 million, of which \$19 million was in accounts payable and accrued liabilities as of November 3, 2013. The Company cannot provide assurance that it will be able to obtain the additional capital required to fund its operations on reasonable terms, if at all, or that any such inability will not have a material adverse effect on its business and results of operations.

The Company's agreements with Micron have several risks; should either company not comply or execute under these agreements it could significantly disrupt the Company's business and technological activities, which could have a material adverse effect on the Company's operations and cash flows.

In 2006 Photronics and Micron entered into a joint venture known as MP Mask. The joint venture develops and produces photomasks for leading-edge and advanced next generation semiconductors. As part of the formation of the joint venture, Micron contributed its existing photomask technology center located at its Boise, Idaho, headquarters to MP Mask and Photronics paid Micron \$135 million in exchange for a 49.99% interest in MP Mask, a license for photomask technology of Micron and certain supply agreements. Since the formation of the joint venture, the Company has, through November 3, 2013, made contributions to MP Mask of \$38 million and received returns of investments of \$10 million.

MP Mask is governed by a Board of Managers, appointed by Micron and the Company. Since MP Mask's inception, Micron, as a result of its majority ownership, has held majority voting power on the Board of Managers. The voting power held by each party is subject to change as ownership interests change. Under the MP Mask joint venture operating agreement, the Company may be required to make additional capital contributions to MP Mask up to the maximum amount defined in the operating agreement. However, should the Board of Managers determine that further additional funding is required, MP Mask would need to pursue its own financing. If MP Mask is unable to obtain its own financing, it may request additional capital contributions from the Company. Should the Company choose not to make a requested contribution to MP Mask, its ownership percentage may be reduced.

The failure of Photronics or Micron to comply or execute under any of these agreements, capitalize on the use of existing technology or further develop technology could result in a significant disruption to the Company's business and technological activities, and could adversely affect the Company's operations and cash flows.

The Company has been dependent on sales to a limited number of large customers; the loss of any of these customers or a significant reduction in orders from these customers could have a material adverse effect on its sales and results of operations.

Historically, the Company has sold a significant proportion of photomasks to a limited number of IC and FPD manufacturers. During fiscal 2013, one customer, Samsung Electronics Co., Ltd., accounted for 18% of the Company's net sales. The Company's five largest customers, in the aggregate, accounted for 43%, 43% and 45% of net sales in fiscal 2013, 2012, and 2011, respectively. None of the Company's customers have entered into a significant long-term agreement with the Company requiring them to purchase the Company's products. The loss of a significant customer or a significant reduction or delay in orders from any significant customer, (including reductions or delays due to customer departures from recent buying patterns), or an unfavorable change in market, economic, or competitive conditions in the semiconductor or FPD industries, could have a material adverse effect on the Company's financial performance and business prospects. The consolidation of semiconductor manufacturers or an economic downturn in the semiconductor industry may increase the likelihood of losing a significant customer and could also have an adverse effect on the Company's financial performance and business prospects.

The Company depends on a small number of suppliers for equipment and raw materials and, if the Company's suppliers do not deliver their products to it, the Company may be unable to deliver its products to its customers, which could adversely affect its business and results of operations.

The Company relies on a limited number of photomask equipment manufacturers to develop and supply the equipment it uses. These equipment manufacturers currently require lead times of up to twelve months or longer between the order and the delivery of certain photomask imaging and inspection equipment. The failure of such manufacturers to develop or deliver such equipment on a timely basis could have a material adverse effect on the Company's business and results of operations. Further, the Company relies on equipment manufacturers to develop future generations of manufacturing equipment to meet its requirements. In addition, the manufacturing equipment necessary to produce advanced photomasks could become prohibitively expensive.

The Company uses high precision quartz photomask blanks, pellicles, and electronic grade chemicals in its manufacturing processes. There are a limited number of suppliers of these raw materials. The Company has no long-term contracts for the supply of these raw materials. Any delays or quality problems in connection with significant raw materials, particularly photomask blanks, could cause delays in the shipments of photomasks, which could have a material adverse effect on the Company's business and results of operations. The fluctuation of foreign currency exchange rates, with respect to prices of equipment and raw materials used in manufacturing, could also have a material adverse effect on the Company's business and results of operations.

The Company faces risks associated with the use of sophisticated equipment and complex manufacturing processes and technologies. The inability of the Company to effectively utilize such equipment and technologies and perform such processes could have a material adverse effect on its business and results of operations.

The Company's complex manufacturing processes require the use of expensive and technologically sophisticated equipment and materials, and are continually modified in an effort to improve manufacturing yields and product quality. Minute impurities, defects or other difficulties in the manufacturing process can lower manufacturing yields and make products unmarketable. Moreover, manufacturing leading-edge photomasks is more complex and time consuming than manufacturing less advanced photomasks, and may lead to delays in the manufacturing of all levels of photomasks. The Company has, on occasion, experienced manufacturing difficulties and capacity limitations that have delayed the Company's ability to deliver products within the time frames contracted for by its customers. The Company cannot provide assurance that it will not experience these or other manufacturing difficulties, or be subject to increased costs or production capacity constraints in the future, any of which could result in a loss of customers or could otherwise have a material adverse effect on its business and results of operations.

The Company's debt agreements limit its ability to obtain financing and may obligate the Company to repay debt before its maturity.

Financial covenants related to the Company's credit facility, which was amended in December 2013, include Total Leverage Ratio, a Minimum Interest Coverage Ratio, and Minimum Unrestricted Cash Balances. Existing covenant restrictions limit the Company's ability to obtain additional debt financing and, should Photronics be unable to meet one or more of these covenants, its lenders may require the Company to repay any outstanding balance prior to the expiration date of the agreements. The Company's ability to comply with the financial and other covenants in its debt agreements may be affected by worsening economic or business conditions, or other events. The Company cannot assure that additional sources of financing would be available to pay off any long-term borrowings, so as to avoid default. Should the Company default on certain of its long-term borrowings, a cross default would occur on other long-term borrowings, unless amended or waived.

Acquisitions, mergers or joint ventures by the Company may entail certain operational and financial risks.

The Company has made significant acquisitions throughout its history. In November 2013 the Company announced that it had entered into an agreement to merge PSMC with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture which will operate under the name of Photronics DNP Mask Corporation (PDMC) (see Note 22 to the consolidated financial statements for further discussion), and it may make other acquisitions or participate in other joint ventures or mergers in the future. Such transactions are subject to acquisition accounting, as prescribed in ASC 805 "Business Combinations", under which identifiable assets acquired, liabilities assumed and any noncontrolling interests are generally recognized at their acquisition date fair values and separately from goodwill, if any, that may be required to be recognized. Goodwill, when recognizable, would be measured as the excess amount of any consideration transferred, which is generally measured at fair value, over the acquisition date fair values of the identifiable assets acquired and liabilities assumed. In cases of acquisitions that require the Company to estimate the fair values of assets acquired and liabilities assumed, such estimates, though based upon assumptions that the Company believes to be reasonable, are subject to uncertainty. After the completion of such an acquisition, if in fact the transaction is consummated, the Company may be subject to various risks which could adversely affect its future earnings and cash flows. These may include that: the cost of combining the operations of the acquired company with the Company's operations may exceed the Company's estimates; goodwill, if any, or other intangible assets recognized may be subject to impairment charges; the lives of intangible assets acquired may be reduced; contingent liabilities are identified or change; the unanticipated loss of sales due to an overlap of customers served by the Company and the acquiree occurs; and that greater than anticipated charges to maintain duplicate pre-merger activities and eliminate duplicative activities are experienced. Furthermore, the Company may need to utilize its cash reserves and/or issue new securities to fund future acquisitions, which could have a dilutive effect on its earnings per share.

The Company's cash flows from operations and current holdings of cash may not be adequate for its current and long-term needs.

The Company's liquidity is highly dependent on its sales volume and the timing of its capital expenditures, (which can vary significantly from period to period), as it operates in a high fixed cost environment. Depending on conditions in the semiconductor and FPD markets, the Company's cash flows from operations and current holdings of cash may not be adequate to meet its current and long-term needs for capital expenditures, operations and debt repayments. Historically, in certain years, the Company has used external financing to fund these needs. Due to conditions in the credit markets and covenant restrictions on its existing debt, some financing instruments used by the Company in the past may not be available to it. Therefore, the Company cannot provide assurance that additional sources of financing would be available to it on commercially favorable terms, if at all, should its cash requirements exceed its cash available from operations, existing cash, and cash available under its credit facility.

The Company may incur unforeseen charges related to possible future facility closures or restructurings.

The Company cannot provide assurance that there will not be facility closures or restructurings in the near or long-term, nor can it assure that it will not incur significant charges, should there be any future facility closures or restructurings.

The Company operates in a highly competitive environment and, should it be unable to meet its customers' requirements for product quality, timeliness of delivery or technical capabilities, its sales could be adversely affected.

The photomask industry is highly competitive, and most of the Company's customers utilize more than one photomask supplier. The Company's competitors include Compugraphics, Dai Nippon Printing Co., Ltd., Hoya Corporation, SK-Electronics Co., Ltd., Taiwan Mask Corporation and Toppan Printing Co., Ltd. The Company also competes with semiconductor manufacturers' captive photomask manufacturing operations, some of which market their photomask manufacturing services to outside customers. The Company expects to face continued competition from these and other suppliers in the future. Many of the Company's competitors have substantially greater financial, technical, sales, marketing and other resources than it has. Also, when producing smaller geometry photomasks, some of the Company's competitors may be able to more rapidly develop, produce, and achieve higher manufacturing yields than the Company. The Company believes that consistency of product quality and timeliness of delivery, as well as price, technical capability, and service are the principal factors considered by customers in selecting their photomask suppliers. The Company's inability to meet these requirements could have a material adverse effect on its business and results of operations. In the past, competition led to pressure to reduce prices which, the Company believes, contributed to the decrease in the number of independent photomask suppliers. This pressure to reduce prices may continue in the future.

The Company's substantial international operations are subject to additional risks.

Sales from the Company's international operations were approximately 70%, 70% and 69% of the Company's net sales in fiscal 2013, 2012 and 2011, respectively. The Company believes that maintaining significant international operations requires it to have, among other things, a local presence in the geographic markets that it supplies. This requires significant investments in financial, managerial, operational, and other resources. Since 1996, the Company has significantly expanded its operations in international markets by acquiring existing businesses in Europe, acquiring majority equity interests in photomask manufacturing operations in Korea and Taiwan and building a new manufacturing facility for FPD photomasks in Taiwan. The Company, in order to enable it to optimize its investments and other resources, closely monitors the semiconductor and FPD manufacturing markets for indications of geographic movement and, in conjunction with these efforts, continues to assess the locations of its manufacturing facilities. These assessments may result in the opening or closing of facilities.

Operations outside of the United States are subject to inherent risks, including fluctuations in exchange rates, unstable political and economic conditions in various countries, unexpected changes in regulatory requirements, tariffs and other trade barriers, difficulties in staffing and managing international operations, longer accounts receivable payment cycles and potentially adverse tax consequences. These factors may have a material adverse effect on the Company's ability to generate sales outside of the United States and, consequently, on its business and results of operations.

Changes in foreign currency exchange rates could have a material adverse effect on the Company's results of operations, financial condition or cash flows.

The Company's financial statements are prepared in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP) and are reported in U.S. dollars. The Company's operations have transactions and balances denominated in currencies other than the U.S. dollar, primarily the Korean won, New Taiwan dollar, Japanese yen, Singapore dollar, euro, and the pound sterling. In fiscal 2013, the Company recorded a net gain from changes in foreign currency exchange rates of \$0.5 million in its statement of income, while its net assets were increased by \$10.6 million as a result of the translation of foreign currency financial statements to U.S. dollars. In the event of significant foreign currency fluctuations, the Company's results of operations, financial condition or cash flows may be adversely affected.

The Company's business depends on managerial and technical personnel, who are in great demand, and its inability to attract and retain qualified employees could adversely affect the Company's business and results of operations.

The Company's success depends, in part, upon key managerial, engineering and technical personnel, as well as its ability to continue to attract and retain additional qualified personnel. The loss of certain key personnel could have a material adverse effect upon the Company's business and results of operations. There can be no assurance that the Company can retain its key managerial, and technical employees, or that it can attract similar additional employees in the future.

The Company may be unable to enforce or defend its ownership and use of proprietary technology, and the utilization of unprotected Company developed technology by its competitors could adversely affect the Company's business, results of operations and financial position.

The Company believes that the success of its business depends more on its proprietary technology, information and processes, and know-how than on its patents or trademarks. Much of its proprietary information and technology related to manufacturing processes is not patented and may not be patentable. The Company cannot offer assurance that:

- it will be able to adequately protect its technology;
- competitors will not independently develop similar technology; or
- international intellectual property laws will adequately protect its intellectual property rights.

The Company may become the subject of infringement claims or legal proceedings by third parties with respect to current or future products or processes. Any such claims, with or without merit, or litigation to enforce or protect its intellectual property rights, or that require the Company to defend itself against claimed infringements of the rights of others, could result in substantial costs, diversion of resources, and product shipment delays or could force the Company to enter into royalty or license agreements, rather than dispute the merits of these claims. Any of the foregoing could have a material adverse effect on the Company's business, results of operations and financial position.

The Company may be unprepared for changes to environmental laws and regulations and may incur liabilities arising from environmental matters.

The Company is subject to numerous environmental laws and regulations that impose various environmental controls on, among other things, the discharge of pollutants into the air and water and the handling, use, storage, disposal and clean-up of solid and hazardous wastes. Changes in these laws and regulations may have a material adverse effect on the Company's financial position and results of operations. Any failure by the Company to adequately comply with these laws and regulations could subject it to significant future liabilities.

In addition, these laws and regulations may impose clean-up liabilities on current and former owners and operators of real property as well as parties who arrange for the disposal of hazardous substances at off-site locations owned or operated by others, without regard to fault, so that these liabilities may be joint and several with other parties. In the past, the Company has been involved in remediation activities related to its properties. The Company believes, based upon current information, that environmental liabilities relating to these activities or other matters are not material to its financial position or operations. However, there can be no assurances that the Company will not incur any material environmental liabilities in the future.

The Company's production facilities could be damaged or disrupted by a natural disaster or labor strike, either of which could adversely affect its financial position, results of operations and cash flows.

A major catastrophe, such as an earthquake or other natural disaster, labor strike, or work stoppage at any manufacturing facility of the Company, its suppliers, or its customers, could result in a prolonged interruption of the Company's business. A disruption resulting from any one of these events could cause significant delays in shipments of the Company's products and the loss of sales and customers, which could have a material adverse effect on the Company's financial position, results of operations, and cash flows. The Company's facilities in Taiwan are located in a seismically active area.

The Company's sales can be impacted by the health and stability of the general economy, which could adversely affect its results of operations and cash flows.

Unfavorable general economic conditions in the U.S. or other countries in which the Company or its customers conduct business may have the effect of reducing the demand for photomasks. Economic downturns may lead to a decrease in demand for end products whose manufacturing processes involve the use of photomasks, which may result in a reduction in new product design and development by semiconductor or FPD manufacturers, and adversely affect the Company's results of operations and cash flows.

Additional taxes could adversely affect the Company's financial results.

The Company's tax filings are subjected to audit by tax authorities in the various jurisdictions in which it does business. These audits may result in assessments of additional taxes that are subsequently resolved with the authorities or through the courts. Currently, the Company believes there are no outstanding assessments whose resolution would result in a material adverse financial result. However, the Company cannot offer assurances that unasserted or potential future assessments would not have a material adverse effect on its financial condition or results of operations.

The Company's business could be adversely impacted by global or regional catastrophic events.

The Company's business could be adversely affected by terrorist acts, major natural disasters, widespread outbreaks of infectious diseases, or the outbreak or escalation of wars, especially in the Asian markets, where the Company generates a significant portion of its sales, and in Japan where it purchases raw materials and capital equipment. Such events in the geographic regions in which the Company does business, including escalations of political tensions and military operations within the Korean Peninsula, where a major portion of the Company's foreign operations are located, could have material adverse impacts on its sales volume, cost of raw materials, results of operations, cash flows and financial condition.

Technology failures or cyber security breaches could have a material adverse effect on the Company's operations.

The Company relies on information technology systems to process, transmit, store, and protect electronic information. For example, a significant portion of the communications between the Company's personnel, customers, and suppliers depends on information technology. Information technology systems of the Company may be vulnerable to a variety of interruptions due to events beyond its control including, but not limited to, natural disasters, terrorist attacks, telecommunications failures, computer viruses, hackers, and other security issues. The Company has technology and information security processes and disaster recovery plans in place to mitigate its risk to these vulnerabilities. However, these measures may not be adequate to ensure that its operations will not be disrupted, should such an event occur.

Servicing the Company's debt requires a significant amount of cash, and the Company may not have sufficient cash flows from its operations to pay its indebtedness.

The Company's ability to make scheduled payments of debt principal and interest or to refinance its indebtedness depends on its future performance, which is subject to economic, financial, competitive and other factors beyond the Company's control. The Company's business may not continue to generate sufficient cash flows from operations in the future to both service its debt and make necessary capital expenditures. If the Company is unable to generate such cash flows, it may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. The Company's ability to refinance its indebtedness would depend upon the conditions in the capital markets and the Company's financial condition at such time. The Company may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on its debt obligations.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None

ITEM 2. PROPERTIES

The following table presents certain information about the Company's photomask manufacturing facilities:

Location	Type of Interest
Allen, Texas	Owned
Boise, Idaho	Owned
Brookfield, Connecticut	Owned
Bridgend, South Wales	Leased
Cheonan, Korea	Owned
Dresden, Germany	Leased
Hsinchu, Taiwan	Leased
Taichung, Taiwan	Owned (1)

(1) The Company owns its manufacturing facility in Taichung, however, it leases the related land.

The Company believes that its existing manufacturing facilities are suitable and adequate for its present purposes. The Company also leases various sales offices. The Company's administrative headquarters are located in Brookfield, Connecticut, in a building that it owns.

ITEM 3. LEGAL PROCEEDINGS

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

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS, AND ISSUER PURCHASES OF EQUITY SECURITIES

The Common Stock of the Company is traded on the NASDAQ Global Select Market ("NASDAQ") under the symbol PLAB. The table below shows the range of high and low sale prices per share of each quarter for fiscal years 2013 and 2012, as reported by the NASDAQ Global Select Market.

	<u>High</u>	<u>Low</u>
Fiscal Year Ended November 3, 2013:		
Quarter Ended January 27, 2013	\$ 6.21	\$ 4.56
Quarter Ended April 28, 2013	7.50	5.81
Quarter Ended July 28, 2013	8.85	7.07
Quarter Ended November 3, 2013	8.89	7.03
Fiscal Year Ended October 28, 2012:		
Quarter Ended January 29, 2012	\$ 7.65	\$ 4.95
Quarter Ended April 29, 2012	7.70	5.80
Quarter Ended July 29, 2012	6.72	5.33
Quarter Ended October 28, 2012	6.45	4.80

On December 27, 2013, the closing sale price of the Common Stock per the NASDAQ Global Select Market was \$8.98. Based on information available to the Company, the Company believes it has approximately 11,000 shareholders.

The Company, to date, has not paid any cash dividends on PLAB shares and, for the foreseeable future, anticipates that earnings will continue to be retained for use in its business. Further, the Company's credit facility precludes it from paying cash dividends.

Securities authorized for issuance under equity compensation plans

The information regarding the Company's equity compensation required to be disclosed by Item 201(d) of Regulation S-K is incorporated by reference from the Company's 2014 definitive Proxy Statement into Item 12 of Part III of this report. The 2014 Proxy Statement will be filed within 120 days after the Company's fiscal year ended November 3, 2013.

ITEM 6. SELECTED FINANCIAL DATA

The following selected financial data is derived from the Company's audited consolidated financial statements. The data should be read in conjunction with the audited consolidated financial statements and notes thereto and other financial information included elsewhere in this Form 10-K (in thousands, except per share amounts).

	Year Ended				
	November 3, 2013	October 28, 2012	October 30, 2011	October 31, 2010	November 1, 2009
OPERATING DATA:					
Net sales	\$ 422,180	\$ 450,439	\$ 512,020	\$ 425,554	\$ 361,353
Cost and expenses:					
Cost of sales	(322,540)	(338,519)	(375,806)	(333,739)	(304,282)
Selling, general and administrative	(48,213) (a)	(46,706)	(45,240)	(42,387)	(41,162)
Research and development	(20,758)	(19,371)	(15,507)	(14,932)	(15,423)
Consolidation, restructuring and related (charges) credits	-	(1,428) (b)	-	4,979 (f)	(13,557) (h)
Impairment of long-lived assets	-	-	-	-	(1,458) (i)
Gain on sale of facility	-	-	-	-	2,034
Operating income (loss)	<u>30,669</u>	<u>44,415</u>	<u>75,467</u>	<u>39,475</u>	<u>(12,495)</u>
Other income (expense):					
Interest expense	(7,756)	(7,488)	(7,258)	(9,475)	(22,401)
Interest and other income (expense), net	3,892	3,721 (c)	2,949 (d)	2,553 (g)	(2,208) (j)
Debt extinguishment loss	-	-	(35,259) (e)	-	-
Income (loss) before income tax provision	26,805	40,648	35,899	32,553	(37,104)
Income tax provision	(7,229)	(10,793)	(15,691)	(7,471)	(4,323)
Net income (loss)	19,576 (a)	29,855 (c)	20,208 (e)	25,082 (f) (g)	(41,427) (j)
Net income attributable to noncontrolling interests	(1,610)	(1,987) (b)	(3,979) (d)	(1,160)	(483) (h) (i)
Net income (loss) attributable to Photronics, Inc. shareholders	<u>\$ 17,966</u> (a)	<u>\$ 27,868</u> (c)	<u>\$ 16,229</u> (e)	<u>\$ 23,922</u> (f) (g)	<u>\$ (41,910)</u> (j)
Earnings (loss) per share:					
Basic	<u>\$ 0.30</u> (a)	<u>\$ 0.46</u> (c)	<u>\$ 0.28</u> (e)	<u>\$ 0.45</u> (f) (g)	<u>\$ (0.97)</u> (j)
Diluted	<u>\$ 0.29</u> (a)	<u>\$ 0.44</u> (c)	<u>\$ 0.28</u> (e)	<u>\$ 0.43</u> (f) (g)	<u>\$ (0.97)</u> (j)
Weighted-average number of common shares outstanding:					
Basic	<u>60,644</u>	<u>60,055</u>	<u>57,030</u>	<u>53,433</u>	<u>43,210</u>
Diluted	<u>61,599</u>	<u>76,464</u>	<u>58,458</u>	<u>65,803</u>	<u>43,210</u>

BALANCE SHEET DATA

	As of				
	November 3, 2013	October 28, 2012	October 30, 2011	October 31, 2010	November 1, 2009
Working capital	\$ 213,879	\$ 234,281	\$ 209,306	\$ 86,573	\$ 89,542
Property, plant and equipment, net	422,740	380,808	368,680	369,814	347,889
Total assets	885,929	849,234	817,854	703,879	663,656
Long-term debt	182,203	168,956	152,577	78,852	112,137
Equity	587,831	586,001	559,756	495,943	449,696

- (a) Includes transaction expenses of \$0.8 million in connection with the pending joint venture with DNP Photomask Technology Co., Ltd.
- (b) Includes consolidation and restructuring charges of \$1.4 million in connection with the discontinuance of manufacturing operations at the Company's Singapore facility.
- (c) Includes non-cash gain of \$0.1 million in connection with subsequent measurement at fair value of warrants issued to purchase the Company's common stock.
- (d) Includes non-cash charge of \$0.4 million in connection with subsequent measurement at fair value of warrants issued to purchase the Company's common stock.
- (e) Includes losses recorded in connection with the acquisition of \$35.4 million face amount of the Company's 5.5% convertible senior notes, in exchange for 5.2 million shares of its common stock and cash of \$22.9 million.
- (f) Includes consolidation and restructuring credits of \$5.0 million in connection with the closure of the Company's Shanghai, China, facility.
- (g) Includes non-cash charge of \$0.9 million in connection with subsequent measurement at fair value of warrants issued to purchase the Company's common stock.
- (h) Includes consolidation and restructuring charges of \$13.6 million in connection with the closures of the Company's Shanghai, China, and Manchester, U.K., manufacturing facilities.
- (i) Includes impairment charge of \$1.5 million related to the Company's Manchester, U.K., manufacturing facility.
- (j) Includes non-cash charge of \$0.3 million in connection with subsequent measurement at fair value of warrants issued to purchase the Company's common stock.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**Results of Operations for the Years Ended November 3, 2013, October 28, 2012 and October 30, 2011****Overview**

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

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

The Company is focused on improving its competitiveness by advancing its technology and reducing costs and, in connection therewith, has invested in manufacturing equipment to serve the high-end market. As the Company continues to face challenges in the current and near term that require it to continue to make significant improvements in its competitiveness, it continues to evaluate further cost reduction initiatives.

As of December 2013 state-of-the-art production for semiconductor masks is considered to be 45 nanometer and lower for ICs and Generation 8 and above and AMOLED display based process technologies for FPDs. However, 65 nanometer and above geometries for semiconductors and Generation 7 and below, excluding AMOLED, process technologies for FPDs constitute the majority of designs currently being fabricated in volume. At these geometries, the Company can produce full lines of photomasks and there is no significant technology employed by the Company's competitors that is not available to the Company. The Company expects 45 nanometer and below designs to continue to move to wafer fabrication throughout fiscal 2014, and believes it is well positioned to service an increasing volume of this business as a result of its investments in manufacturing processes and technology in the global regions where its customers are located.

The photomask industry has been, and is expected to continue to be, characterized by technological change and evolving industry standards. In order to remain competitive, the Company will be required to continually anticipate, respond to, and utilize changing technologies. In particular, the Company believes that, as semiconductor geometries continue to become smaller, it will be required to manufacture even more complex optically-enhanced reticles, including optical proximity correction and phase-shift photomasks. Additionally, demand for photomasks has been, and could in the future be, adversely affected by changes in semiconductor and high performance electronics fabrication methods that affect the type or quantity of photomasks used, such as changes in semiconductor demand that favor field-programmable gate arrays and other semiconductor designs that replace application-specific ICs. Furthermore, increased market acceptance of alternative methods of transferring circuit designs onto semiconductor wafers could reduce or eliminate the need for photomasks in the production of semiconductors. As of the end of fiscal 2013, one alternative method, direct-write lithography, has not been proven to be a commercially viable alternative to photomasks, as it is considered too slow for high volume semiconductor wafer production, and the Company has not experienced a significant loss of revenue as a result of this or other alternative semiconductor design methodologies. However, should direct-write or any other alternative method of transferring IC designs to semiconductor wafers without the use of photomasks achieve market acceptance, and the Company does not anticipate, respond to, or utilize these or other changing technologies due to resource, technological or other constraints, its business and results of operations could be materially adversely affected.

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 ("ASPs"). The Company's capital expenditure payments aggregated approximately \$243 million for the three fiscal years ended November 3, 2013, which has significantly contributed to the Company's operating expenses. The Company intends to continue to make the required investments to support the technological demands of its customers and position itself for future growth, and expects capital expenditure payments to be between \$70 million and \$90 million in fiscal 2014.

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

In the first quarter of fiscal 2014 the Company entered an agreement to merge PSMC with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture which will operate under the name of Photonics DNP Mask Corporation (PDMC). The pending merger, which is a noncash transaction, will result in the Company owning 50.01% and DNP owning 49.99% of PDMC, whose financial results will be included in the Company's consolidated financial statements. PDMC is expected to generate sufficient cash flows to fund its operating and capital requirements. The merger is subject to regulatory approvals and customary closing conditions, and is expected to be finalized during the first half of fiscal 2014.

In the first quarter of fiscal 2014 the Company amended its credit facility to a five year \$50 million credit facility (the "new credit facility") with an expansion capacity to \$75 million, and simultaneously repaid its \$21.3 million term loan. The new credit facility, which replaced the credit facility in effect at November 3, 2013, bears interest based on the Company's total leverage ratio, at LIBOR plus a spread, as defined in the new credit facility.

In the fourth quarter of fiscal 2013 a \$26.4 million principal amount, five year capital lease to fund the purchase of a high-end lithography tool commenced. Payments under the lease, which bears interest at 2.77% are \$0.5 million per month through July 2018. Under the terms of the lease agreement, the Company must maintain the equipment in good working order, and is subject to a cross default with a cross acceleration provision related to certain nonfinancial covenants incorporated in its credit facility. As of November 3, 2013, the total amount payable through the end of the lease term was \$26.8 million, of which \$25.1 million represented principal and \$1.7 million represented interest.

In the third quarter of fiscal 2013 the Company completed a tender offer for shares of PSMC. A total of 50.3 million shares were tendered at the offering price of 16.30 NTD (equivalent to a total of \$27.4 million), which increased the Company's ownership interest in PSMC from 75.11% to 98.13%. In the fourth quarter of fiscal 2013 the Company further increased its ownership interest in PSMC to 98.63% with the purchase of an additional 1.1 million shares of PSMC for \$0.7 million.

In the first quarter of fiscal 2013 PSMC completed a stock repurchase plan that had been authorized by its board of directors in fiscal 2012. The completion of this repurchase plan resulted in the Company acquiring an additional 9.2 million shares at a cost \$4.2 million, and increasing its ownership percentage in PSMC from 72.09% at October 28, 2012 to 75.11% as of January 27, 2013.

In the second quarter of fiscal 2012 the Company paid \$35 million to Micron in connection with its purchase of the U.S. nanoFab facility, which it had been leasing from Micron under an operating lease that was to end in December 2014. The purchase of the facility resulted in the Company's outstanding operating lease commitments being reduced by a total of \$15 million for fiscal years 2013 and 2014.

In the second quarter of fiscal 2012 the Company, in connection with its purchase of the U.S. nanoFab facility, amended its credit facility ("the credit facility") to include the addition of a \$25 million term loan maturing in March 2017 with minimum quarterly principal payments of \$0.6 million (quarterly payments commenced in June 2012 and were based on a ten year repayment period). The Company repaid the \$21.3 million balance of this term loan that was outstanding at November 3, 2013, in the first quarter of fiscal 2014. The credit facility bore interest (2.69% at November 3, 2013), based on the Company's total leverage ratio, at LIBOR plus a spread, as defined in the credit facility.

In the first quarter of fiscal 2012 the Company ceased the manufacture of photomasks at its Singapore facility. This action, which was substantially completed in fiscal 2012, resulted in the Company recording restructuring charges of \$1.4 million in fiscal 2012.

In 2012 the board of directors of PSMC authorized PSMC to repurchase additional shares of its outstanding common stock for retirement. These repurchase programs resulted in 35.9 million shares being purchased for \$15.6 million in the fiscal year ended October 28, 2012. PSMC's repurchase of these shares increased the Company's ownership percentage in PSMC from 62.25% at October 30, 2011 to 72.09% as of October 28, 2012.

In 2011 the board of directors of PSMC authorized PSMC to repurchase shares of its outstanding common stock for retirement. These repurchase programs resulted in 21.6 million shares being purchased for \$9.9 million. PSMC's repurchase of these shares increased the Company's ownership percentage in PSMC from 57.53% at October 31, 2010 to 62.25% as of October 30, 2011.

In the second quarter of fiscal 2011 the Company issued, through a private offering pursuant to Rule 144A under the Securities Act of 1933, as amended, \$115 million aggregate principal amount of 3.25% convertible senior notes. The notes mature on April 1, 2016, and note holders may convert each \$1,000 principal amount of notes to 96.3879 shares of common stock (equivalent to an initial conversion price of \$10.37 per share of common stock) at any time prior to the close of business on the second scheduled trading day immediately preceding April 1, 2016. The conversion rate is subject to adjustment upon the occurrence of certain events, which are described in the indenture dated March 28, 2011. The Company is not required to redeem the notes prior to their maturity date. Interest on the notes accrues in arrears, and is paid semiannually through the notes' maturity date. Interest payments on the notes commenced on October 1, 2011. The net proceeds of the notes were approximately \$110.7 million, which were used, in part, to repurchase \$35.4 million of the Company's 5.5% convertible senior notes, which were to mature in October 2014, and to pay, in full, its then outstanding obligations under capital leases of \$19.8 million.

In the second and third quarters of fiscal 2011 the Company, in two separate transactions, acquired \$35.4 million of its 5.5% convertible senior notes in exchange for 5.2 million shares of its common stock, with a fair value of \$45.7 million, and cash of \$22.9 million (the note holders received 147.529 shares and cash of \$647 for each \$1,000 note). The Company, in connection with these transactions, recorded extinguishment losses of \$35.1 million, which included the write-off of deferred financing fees of \$2.0 million. The losses are included in other income (expense) in the Company's consolidated statements of income. As discussed above, in the first quarter of fiscal 2014 the Company entered into an amended five year \$50 million credit facility. The Company intends to repay its remaining 5.5% convertible senior notes with borrowings against the amended credit facility and, therefore, has classified as long-term the entire \$22.1 million of those notes that was outstanding as of November 3, 2013.

Results of Operations

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

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net sales	100.0%	100.0%	100.0%
Cost of sales	(76.4)	(75.1)	(73.4)
Gross margin	23.6	24.9	26.6
Selling, general and administrative expenses	(11.4)	(10.4)	(8.9)
Research and development expenses	(4.9)	(4.3)	(3.0)
Consolidation, restructuring and related charges	-	(0.3)	-
Operating income	7.3	9.9	14.7
Interest expense	(1.9)	(1.7)	(1.4)
Interest and other income (expense), net	0.9	0.8	0.6
Debt extinguishment loss	-	-	(6.9)
Income before income tax provision	6.3	9.0	7.0
Income tax provision	(1.7)	(2.4)	(3.1)
Net income	4.6	6.6	3.9
Net income attributable to noncontrolling interests	(0.3)	(0.4)	(0.8)
Net income attributable to Photronics, Inc. shareholders	4.3%	6.2%	3.1%

Note: All the following tabular comparisons, unless otherwise indicated, are for the fiscal years ended November 3, 2013 (2013), October 28, 2012 (2012) and October 30, 2011 (2011), in millions of dollars.

Net Sales

	2013	2012	2011	Percent Change	
				2012 to 2013	2011 to 2012
IC	\$ 320.6	\$ 350.1	\$ 391.2	(8.4)%	(10.5)%
FPD	101.6	100.3	120.8	1.3	(17.0)
Total net sales	\$ 422.2	\$ 450.4	\$ 512.0	(6.3)%	(12.0)%

Net sales for 2013 decreased 6.3% to \$422.2 million as compared to \$450.4 million for 2012, primarily related to reduced high-end IC sales of \$30 million as compared to the prior year. The reduced high-end IC revenue was primarily attributable to an Asian foundry customer for which the Company was not qualified as a result of a node migration, and to a lesser extent, reduced average selling prices (ASPs). Total IC sales decreased by \$29.5 million or 8.4% in 2013 as compared to 2012, primarily due to reduced high-end IC sales discussed previously, and mainstream IC sales were essentially flat. Total FPD sales increased by \$1.3 million or 1.3% in 2013 as compared to 2012, primarily due to increased high-end FPD sales, which was partially offset by a \$4 million decrease in mainstream FPD sales. Total revenues attributable to high-end products decreased by \$24 million to \$149 million in 2013, as high-end revenues for IC decreased by \$30 million to \$80 million, which were partially offset by a \$6 million increase in high-end FPD revenues to \$69 million. High-end photomask applications, which typically have higher ASPs, include photomask sets for IC products using 45 nanometer and below technologies, and for FPD products using Generation 8 and above and AMOLED technologies. By geographic area, net sales in 2013 as compared to 2012 decreased by \$26.9 million or 16.7% in Korea, decreased by \$8.1 million or 6.0% in the United States, increased by \$8.1 million or 7.4% in Taiwan, increased by \$0.5 million or 1.2% in Europe and decreased by \$1.8 million at other international locations. As a percent of total sales in 2013, sales were 32% in Korea, 30% in the United States, 28% in Taiwan, 9% in Europe, and 1% at other international locations.

Net sales for 2012 decreased 12.0% to \$450.4 million as compared to \$512.0 million for 2011, primarily due to reduced photomask demand as a result of a general slowdown in the semiconductor industry, although high-end IC unit demand and revenues increased. Revenues attributable to high-end products increased by \$12 million to \$173 million, as high-end revenues for IC increased by \$15 million to \$110 million, which were partially offset by a \$3 million reduction in high-end FPD revenues to \$63 million. Mainstream IC and FPD revenues decreased in 2012 as compared to 2011 as a result of decreases in both unit demand and ASPs. By geographic area, net sales in 2012 as compared to 2011 decreased by \$22.8 million or 14.5% in the United States, by \$12.8 million or 10.5% in Taiwan, by \$10.2 million or 5.9% in Korea, by 9.8 million in Singapore or 69.8% (the Company ceased the manufacture of photomasks at its Singapore facility in the first quarter of fiscal 2012) and by \$6.0 million or 12.8% in Europe. As a percent of total sales in 2012 sales were 36% in Korea, 30% in the United States, 24% in Taiwan, 9% in Europe and 1% at other international locations.

Gross Margin

	2013	2012	2011	Percent Change	
				2012 to 2013	2011 to 2012
Gross margin	\$ 99.6	\$ 111.9	\$ 136.2	(11.0)%	(17.8)%
Gross margin %	23.6%	24.9%	26.6%	-	-

Gross margin percentage decreased to 23.6% in 2013 from 24.9% in 2012, primarily due to a decrease in sales in 2013 as compared to 2012. The Company operates in a high fixed cost environment and, to the extent that the Company's revenues and utilization increase or decrease, gross margin will generally be positively or negatively impacted. Gross margin percentage decreased to 24.9% in 2012 from 26.6% in 2011. This decrease was also primarily due to a decrease in sales in 2012 as compared to 2011.

Selling, General and Administrative Expenses

	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>Percent Change</u>	
				<u>2012 to 2013</u>	<u>2011 to 2012</u>
S,G&A expenses	\$ 48.2	\$ 46.7	\$ 45.2	3.2%	3.2%
% of net sales	11.4%	10.4%	8.9%	-	-

Selling, general and administrative expenses increased by \$1.5 million to \$48.2 million in 2013, as compared to 2012, primarily as a result of transaction expenses of \$0.8 million related to a pending joint venture, and to a lesser extent, increased selling-related expenses. Selling, general and administrative expenses increased by \$1.5 million to \$46.7 million in 2012 as compared to 2011 primarily as a result of increased employee compensation and selling-related expenses.

Research and Development

	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>Percent Change</u>	
				<u>2012 to 2013</u>	<u>2011 to 2012</u>
R&D expense	\$ 20.8	\$ 19.4	\$ 15.5	7.2%	24.9%
% of net sales	4.9%	4.3%	3.0%	-	-

Research and development expenses consist primarily of global development efforts related to high-end process technologies for advanced sub-wavelength reticle solutions for IC technologies. Research and development expenses increased by \$1.4 million to \$20.8 million in 2013 as compared to 2012, and increased by \$3.9 million to \$19.4 million in 2012 as compared to 2011, primarily due to increased activities at advanced nanometer technology nodes for IC photomask applications.

Consolidation, Restructuring and Related Charges

Consolidation, restructuring and related charges of \$1.4 million in 2012 primarily relate to the Company ceasing the manufacture of photomasks at its Singapore facility, and were primarily comprised of employee terminations and other costs of \$1.1 million and asset write-downs of \$0.3 million.

The Company continues to assess its global manufacturing strategy. This ongoing assessment could result in future facility closures, asset redeployments, workforce reductions, and the addition of increased manufacturing facilities, all of which would be predicated on market conditions and customer requirements.

Other Income (Expense)

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Interest expense	\$ (7.8)	\$ (7.5)	\$ (7.2)
Interest and other income (expense), net	3.9	3.7	2.9
Debt extinguishment loss	-	-	(35.3)
Total other income (expense), net	<u>\$ (3.9)</u>	<u>\$ (3.8)</u>	<u>\$ (39.6)</u>

Interest expense increased slightly in 2013 as compared to 2012, primarily as a result of an additional capital lease commencing in 2013 related to the purchase of high-end equipment. Interest and other income (expense), net increased in 2013 as compared to 2012, primarily as a result of increased foreign currency exchange gains.

Interest expense increased slightly in 2012 as compared to 2011, primarily as a result of the term loan entered into in the second quarter of 2012. Interest and other income (expense), net increased in 2012 as compared to 2011, primarily as a result of increased interest income on the Company's higher cash balances in 2012.

In the second and third quarters of fiscal 2011, the Company acquired \$35.4 million aggregate principal amount of its 5.5% convertible senior notes by delivering \$22.9 million in cash and 5.2 million shares of its common stock, with a fair value of \$45.7 million. In connection with these 2011 acquisitions the Company recorded total debt extinguishment losses of \$35.1 million, which included the write-off of \$2.0 million of deferred financing fees. A portion of the net proceeds of the Company's March 28, 2011, 3.25% convertible senior notes offering was used to repurchase these notes.

Income Tax Provision

	<u>2013</u>	<u>2012</u>	<u>2011</u>
Income tax provision	\$ 7.2	\$ 10.8	\$ 15.7
Effective income tax rate	27.0%	26.6%	43.7%

The effective tax rate differs from the U.S. statutory rate of 35% in fiscal years 2013 and 2012 primarily due to a higher level of earnings being taxed at lower statutory rates in foreign jurisdictions, combined with the benefit of various investment credits in the foreign jurisdictions.

The effective tax rate differs from the U.S. statutory rate of 35% in fiscal year 2011 primarily due to the impact of the non-deductible debt extinguishment losses and the impact of a foreign subsidiary tax settlement, offset by a higher level of earnings taxed at lower statutory rates in foreign jurisdictions. Further, in Korea and in Taiwan, various investment tax credits have been earned, which also reduced the Company's effective income tax rate in 2011.

The Company considers all available evidence when evaluating the potential future realization of its deferred tax assets and, when based on the weight of all available evidence, it determines that it is more likely than not that some portion or all of its deferred tax assets will not be realized, reduces its deferred tax assets by a valuation allowance. As a result of these considerations, the valuation allowance was increased (decreased) by \$1.1 million, \$2.5 million and \$(8.2) million in 2013, 2012 and 2011, respectively. The Company also regularly assesses the potential outcomes of ongoing and future tax examinations and, accordingly, has recorded accruals for such contingencies.

PKLT, the Company's FPD manufacturing facility in Taiwan, has been accorded a tax holiday which commenced in 2012 and expires in 2017. In addition, the Company was accorded a tax holiday in China which expired in 2011. The availability of these tax holidays did not have a significant impact on the Company's decision to increase its Asian presence, which was in response to fundamental changes that took place in the semiconductor industry that the Company serves. These tax holidays had no dollar or per share effect on the 2013, 2012 or 2011 fiscal years.

Net Income Attributable to Noncontrolling Interests

Net income attributable to noncontrolling interests decreased to \$1.6 million in 2013 as compared to \$2.0 million in 2012, primarily as a result of the effect of shares of PSMC purchased under the tender offer and share repurchase programs discussed in Note 15 to the consolidated financial statements. Net income attributable to noncontrolling interests decreased to \$2.0 million in 2012 as compared to \$4.0 million in 2011, primarily as a result of decreased net income at PSMC, the Company's non-wholly owned subsidiary in Taiwan, and to a lesser extent, due to PSMC's share repurchase program (discussed below).

In June 2013 the Company completed the tender offer for the outstanding shares of PSMC that commenced in April 2013. A total of 50.3 million shares were tendered at the offering price of 16.30 NTD, equivalent to a total of \$27.4 million. This increased the Company's ownership interest in PSMC to 98.13%. In September 2013 the Company purchased an additional 1.1 million shares for \$0.7 million which further increased its ownership interest in PSMC to 98.63% as of November 3, 2013.

PSMC, through a series of repurchase programs which commenced in 2011 and ended in 2013, repurchased shares of its outstanding common stock. These repurchase programs resulted in 9.2 million shares being purchased for \$4.2 million in 2013, 35.9 million shares being purchased for \$15.6 million in 2012 and 21.6 million shares being purchased for \$9.9 million in 2011. PSMC's repurchase of these shares increased the Company's ownership percentage in PSMC from 57.53% at October 31, 2010, to 62.25% as of October 30, 2011, to 72.09% as of October 28, 2012, and to 75.11% as of January 27, 2013.

Liquidity and Capital Resources

	<u>November 3, 2013</u>	<u>October 28, 2012</u>	<u>October 30, 2011</u>
	<i>(in millions)</i>	<i>(in millions)</i>	<i>(in millions)</i>
Cash and cash equivalents	\$ 215.6	\$ 218.0	\$ 189.9
Net cash provided by operating activities	\$ 99.4	\$ 132.5	\$ 136.6
Net cash used in investing activities	\$ (66.2)	\$ (111.9)	\$ (100.7)
Net cash provided by (used in) financing activities	\$ (39.8)	\$ 4.6	\$ 54.5

As of November 3, 2013, the Company had cash and cash equivalents of \$215.6 million compared to \$218.0 million as of October 28, 2012. The Company's working capital decreased \$20.4 million to \$213.9 million at November 3, 2013, as compared to \$234.3 million at October 28, 2012. The decrease in working capital was primarily the result of the purchase of PSMC shares and increased payables for capital expenditures. The Company may use its cash available on hand for operations, capital expenditures, debt repayments, strategic opportunities, stock repurchases or other corporate uses, any of which may be material.

As of October 28, 2012, the Company had cash and cash equivalents of \$218.0 million compared to \$189.9 million as of October 30, 2011. The Company's working capital increased \$25.0 million to \$234.3 million at October 28, 2012, as compared to \$209.3 million at October 30, 2011. The increase in working capital was primarily the result of cash generated from operations.

As of November 3, 2013 and October 28, 2012, the Company's total cash and cash equivalents include \$165.7 million and \$158.2 million, respectively, held by its foreign subsidiaries. The majority of earnings of the Company's foreign subsidiaries are considered to be indefinitely reinvested. The Company's foreign subsidiaries continue to grow through the reinvestment of earnings in additional manufacturing capacity and capability, particularly in the high-end IC and FPD areas. Repatriation of these funds to the U.S. may subject these funds to U.S. federal income taxes and local country withholding tax in certain jurisdictions.

Net cash provided by operating activities decreased to \$99.4 million in fiscal 2013, as compared to \$132.5 million in fiscal 2012, primarily due to reduced year-over-year net income and depreciation and amortization, and less cash generated from accounts receivable in 2013 than in 2012. Net cash provided by operating activities was \$132.5 million in fiscal 2012, as compared to \$136.6 million in fiscal 2011. The decrease was the result of less favorable, when adjusted for a significant non-cash debt extinguishment loss charge, year-over-year operating results, which was partially offset by more cash generated through reduced accounts receivable and inventory balances. Net cash provided by operating activities was \$136.6 million in fiscal 2011 as compared to \$95.9 million in fiscal 2010. The increase was the effect of improved year-over-year operating results (excluding the effect of the non-cash debt portion of the extinguishment loss) as a result of increased sales.

Net cash used in investing activities in fiscal 2013 decreased to \$66.2 million, as compared to \$111.9 million in 2012, primarily due to less capital expenditure payments in 2013, and also due to no additional investments being made in the MP Mask joint venture in 2013, whereas \$13.4 million was invested in 2012. Net cash used in investing activities increased to \$111.9 million in fiscal 2012, as compared to \$100.7 million in fiscal 2011, due to increased purchases of property, plant and equipment, which were partially offset by a decrease in the amount of the Company's year-over-year investment in the MP Mask joint venture. The investments in the joint venture were primarily the result of capital calls made by the joint venture. Net cash used in investing activities in fiscal 2011 increased to \$100.7 million, as compared to \$58.2 million in 2010, primarily due to increases in the Company's investment in MP Mask as a result of capital calls and net proceeds from the sale of the Company's former manufacturing facility in Shanghai, China, which reduced total net proceeds used in investing activities in fiscal 2010, and increased capital expenditures in 2011. Capital expenditure payments for the 2013, 2012, and 2011 fiscal years were \$63.8 million, \$97.0 million and \$82.1 million, respectively. The Company expects capital expenditure payments for fiscal 2014 to range between \$70 million and \$90 million, primarily related to investment in high-end IC manufacturing capability.

Net cash used in financing activities was \$39.8 million in fiscal 2013 as compared to \$4.6 million provided by financing activities in fiscal 2012, and was primarily comprised of payments to acquire additional shares of PSMC and repayments of long-term borrowings. Net cash provided by financing activities was \$4.6 million in fiscal 2012, as compared to \$54.5 million provided by financing activities in fiscal 2011 and, in 2012, was primarily comprised of the proceeds of a \$25 million term loan, that was entered into by the Company in connection with its purchase of the US nanoFab facility, which was partially offset by payments for the repurchase of common stock of PSMC from noncontrolling interests and repayments on long-term borrowings. Net cash provided by financing activities was \$54.5 million in fiscal 2011 as compared to \$32.4 million used in financing activities in fiscal 2010, and was primarily comprised of the net proceeds received from the March 2011 issuance of 3.25% convertible senior notes, partially offset by the repayment of certain other higher interest rate long-term borrowings.

In November 2013 the Company entered into an agreement to merge PSMC with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture which will operate under the name of Photonics DNP Mask Corporation (PDMC). The pending merger, which is a noncash transaction, will result in the Company owning 50.01% and DNP owning 49.99% of PDMC, whose financial results will be included in the Company's consolidated financial statements. PDMC is expected to generate sufficient cash flows to fund its operating and capital requirements. The merger is subject to regulatory approvals and customary closing conditions, and is expected to be finalized during the first half of fiscal 2014.

In December 2013 the Company amended its credit facility to a five year \$50 million credit facility (the "new credit facility") with an expansion capacity of \$75 million. The new credit facility, which replaces the credit facility in effect at November 3, 2013, bears interest based on the Company's total leverage ratio, at LIBOR plus a spread, as defined in the credit facility. Simultaneously, the Company repaid its \$21.3 million term loan.

In March 2011 the Company issued \$115 million aggregate principal amount of 3.25% convertible senior notes. The Company realized net proceeds of \$110.7 million from the issuance of the notes, which mature on April 1, 2016, and commenced paying interest semiannually on October 1, 2011. During the three month period ended May 1, 2011, the Company used \$19.7 million of the net proceeds of the 3.25% convertible senior notes and issued common stock to repurchase approximately \$30.4 million principal amount of its 5.5% convertible senior notes, and used an additional \$19.8 million of the net proceeds to repay its outstanding obligations under capital leases. In June 2011 the Company acquired an additional \$5.0 million principal amount of its outstanding 5.5% convertible senior notes for \$3.2 million and common stock. The Company may use a portion of the remaining net proceeds of its 3.25% convertible senior notes to repurchase additional amounts of its outstanding 5.5% senior convertible notes and for capital expenditure and working capital purposes.

In March 2011 the Company and its lenders amended its revolving credit facility. Under the terms of the amended credit facility, the total amount available to the Company to borrow was reduced from \$65 million to \$30 million. The credit facility bore interest (2.69% at November 3, 2013), based on the Company's total leverage ratio, at LIBOR plus a spread, as defined in the agreement. The credit facility was secured by substantially all of the Company's assets located in the United States, as well as common stock the Company owns in certain of its foreign subsidiaries, and was subject to financial covenants, including the following, as defined in the agreement: minimum fixed charge ratio, total leverage ratio and minimum unrestricted cash balance. As of November 3, 2013, the Company was in compliance with the covenants of its credit facility, had no outstanding borrowings under the credit facility and \$30 million was available for borrowing. As discussed above this credit facility was replaced with a new credit facility in December 2013.

In June 2013 the Company completed a tender offer for shares of PSMC. A total of 50.3 million shares were tendered at the offering price of 16.30 NTD, equivalent to a total of \$27.4 million.

PSMC, through a series of repurchase programs which commenced in 2011 and ended in 2013, repurchased shares of its outstanding common stock. These repurchase programs resulted in 9.2 million shares being purchased for \$4.2 million in 2013, 35.9 million shares being purchased for \$15.6 million in 2012 and 21.6 million shares being purchased for \$9.9 million in 2011.

In August 2013 a \$26.4 million principal amount, five year capital lease to fund the purchase of a high-end lithography tool commenced. Payments under the lease, which bears interest at 2.77% are \$0.5 million per month through July 2018. Under the terms of the lease agreement, the Company must maintain the equipment in good working order, and is subject to a cross default with a cross acceleration provision related to certain nonfinancial covenants incorporated in its credit facility. As of November 3, 2013, the total amount payable through the end of the lease term was \$26.8 million, of which \$25.1 million represented principal and \$1.7 million represented interest.

In April 2011 the Company entered into a five year, \$21.2 million capital lease of manufacturing equipment. Payments under the lease, which bears interest at 3.09%, are \$0.4 million per month through March 2016. As of November 3, 2013, the total lease amount payable through the end of the lease term was \$11.1 million, of which \$10.7 million represented principal and \$0.4 million represented interest.

In February 2012 the Company paid \$35 million to Micron in connection with the purchase of the U.S. nanoFab facility. In connection therewith, the Company amended its credit facility to include the addition of a \$25 million term loan maturing in March 2017, with minimum quarterly principal payments of \$0.6 million. In the first quarter of fiscal 2014 the Company repaid the \$21.3 million balance of this term loan that was outstanding at November 3, 2013. As a result of the purchase of the U.S. nanoFab facility, the Company's lease agreement with Micron for the U.S. nanoFab facility was cancelled, which reduced the Company's related outstanding operating lease commitments by a combined total of \$15 million for fiscal years 2013 and 2014.

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

At November 3, 2013, the Company had outstanding purchase commitments of \$48 million, which included \$42 million related to capital expenditures, primarily for investment in high-end IC photomask manufacturing capability. The Company intends to finance its capital expenditures with its working capital, cash generated from operations, and, if necessary, with additional borrowings.

Cash Requirements

The Company's cash requirements in fiscal 2014 will be primarily to fund its operations, including capital spending, and to service its debt. The Company believes that its cash on hand, cash generated from operations and amounts available under its credit facility will be sufficient to meet its cash requirements for the next twelve months. The Company regularly reviews the availability and terms on which it might issue additional equity or debt securities in the public or private markets. However, the Company cannot assure that additional sources of financing would be available to the Company on commercially favorable terms, should the Company's cash requirements exceed its cash available from operations, existing cash, and cash available under its credit facility.

Contractual Obligations

The following table presents the Company's contractual obligations as of November 3, 2013:

Contractual Obligations	Payment due by period				
	Total	Less Than 1 Year	1 - 3 Years	3 - 5 Years	More Than 5 Years
Long-term borrowings	\$ 158,304	\$ 2,500	\$ 142,054	\$ 13,750	\$ -
Operating leases	8,180	2,152	3,592	1,715	721
Capital leases	35,717	9,318	16,779	9,620	-
Unconditional purchase obligations	47,544	44,421	3,123	-	-
Interest	14,309	6,439	7,483	387	-
Other noncurrent liabilities	8,634	-	180	-	8,454
Total	<u>\$ 272,688</u>	<u>\$ 64,830</u>	<u>\$ 173,211</u>	<u>\$ 25,472</u>	<u>\$ 9,175</u>

In December 2013 the Company amended its credit facility, which increased its limit to \$50 million and extended its term to December 2018. The Company intends to repay the remaining outstanding 5.5% convertible senior notes issued in September 2009 with borrowings against this new credit facility and, therefore, has classified as long-term the entire \$22.1 million of those notes that were outstanding as of November 3, 2013.

As of November 3, 2013, the Company had recorded accruals for uncertain tax positions of \$1.7 million which was not included in the above table due to the high degree of uncertainty regarding the timing of future payments related to such liabilities.

Off-Balance Sheet Arrangements

Under the MP Mask joint venture operating agreement, in order to maintain its 49.99% ownership interest, the Company may be required to make additional capital contributions to the joint venture up to the maximum amount defined in the operating agreement. Cumulatively, through November 3, 2013, the Company has contributed \$32.5 million to the joint venture, and has received distributions from the joint venture totaling \$10.0 million. The Company did not make any contributions and received no distributions from MP Mask during fiscal 2013.

Under the PDMC joint venture operating agreement the shareholders of PDMC may be requested to make additional contributions to the pending joint venture. In the event that PDMC requests additional capital from its shareholders, the Company may be required to make additional capital contributions to the joint venture in order to maintain its 50.01% ownership. The joint venture operating agreement limits the amount of contributions that may be requested during both the first four years of the joint venture and during any individual year within those first four years.

The Company leases certain office facilities and equipment under operating leases that may require it to pay taxes, insurance and maintenance expenses related to the properties. Certain of these leases contain renewal or purchase options exercisable at the end of the lease terms. See Note 9 to the consolidated financial statements for additional information on these operating leases.

Business Outlook

A majority of the Company's revenue growth is expected to continue to come from the Asian region as customers increase their use of manufacturing foundries located outside of North America and Europe. Additional revenue growth is also anticipated in North America, as the Company expects to continue to benefit from advanced technology it may utilize under its technology license with Micron.

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

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

Critical Accounting Estimates

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

Estimates and Assumptions

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

Fair Value of Financial Instruments

The fair values of the Company's 3.25% and 5.5% convertible senior notes are estimated by management based upon reference to quoted market prices and other available market information. The fair values of the Company's cash and cash equivalents, accounts receivable, accounts payable, certain other current assets and current liabilities, and variable rate borrowings approximate their carrying value due to their short-term maturities.

Property, Plant and Equipment

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

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

Intangible Assets

Intangible assets consist primarily of a technology license agreement, a supply agreement and acquisition-related intangibles. These assets, except as explained below, are stated at fair value as of the date acquired less accumulated amortization. Amortization is calculated based on the estimated useful lives of the assets, which range from 3 to 15 years, using the straight-line method or another method that more fairly represents the utilization of the assets.

The Company periodically evaluates the remaining useful lives of its intangible assets to determine whether events or circumstances warrant a revision to the remaining periods of amortization. In the event that the estimate of an intangible asset's remaining useful life has changed, the remaining carrying amount of the intangible asset is amortized prospectively over that revised remaining useful life. If it is determined that an intangible asset has an indefinite useful life, that intangible asset would be subject to impairment testing annually or whenever events or circumstances indicate that the carrying value may not, based on future undiscounted cash flows or market factors, be recoverable, and an impairment loss would be recorded in the period so determined. The measurement of the impairment loss would be based on the fair value of the intangible asset.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Determination of recoverability is based on the Company's judgment and estimates of undiscounted future cash flows resulting from the use of the assets and their eventual disposition. Measurement of an impairment loss for long-lived assets that management expects to hold and use is based on the fair value of the assets. The carrying values of assets determined to be impaired are reduced to their estimated fair values. Fair values of the impaired assets would generally be determined using a market or income approach.

Business Combinations

When acquiring other businesses or participating in mergers or joint ventures in which the Company is deemed to be the acquirer, the Company generally recognizes identifiable assets acquired, liabilities assumed and any noncontrolling interests at their acquisition date fair values, and separately from any goodwill that may be required to be recognized. If applicable, goodwill, when recognizable, would be measured as the excess amount of any consideration transferred, which is generally measured at fair value, over the acquisition date fair values of the identifiable assets acquired and liabilities assumed.

Accounting for such transactions requires the Company's management to make significant assumptions and estimates. These include, among others, any estimates or assumptions that may be made for the amounts of future cash flows that will result from any identified intangible assets, the useful lives of such intangible assets, the amount of any contingent liabilities to record at the time of the acquisition, the extent of any restructuring charges expected to be incurred and the fair values of any tangible assets acquired. Although the Company believes any estimates and assumptions it makes to be reasonable and appropriate at the time they are made, unanticipated events and circumstances may arise that affect their accuracy, causing actual results to differ from those estimated by the Company.

Investments in Joint Ventures

The financial results of investments in joint ventures of which the Company has a controlling financial interest are included in the Company's consolidated financial statements. In the case of any investment in a joint venture that gave rise to goodwill, such goodwill would be tested for impairment annually or when an event occurred or circumstances changed that would more likely than not have reduced the fair value of the joint venture below its carry value. Goodwill would be tested for impairment using a two-step process. The Company might, at its option, assess qualitative factors to determine whether it was necessary to perform the two-step impairment test. If it was determined that the two-step test was necessary, the Company would use the test to identify potential goodwill impairment and to measure the amount of a goodwill impairment loss to be recognized (if any).

Investments in joint ventures over which the Company has the ability to exercise significant influence and that, in general, are at least 20 percent owned are accounted for under the equity method. An impairment loss would be recognized whenever a decrease in the value of such an investment below its carrying amount is determined to be other than temporary. In judging "other than temporary," the Company would consider the length of time and the extent to which the fair value of the investment has been less than the carrying amount of the investment, the near-term and longer-term operating and financial prospects of the investee, and the Company's longer-term intent of retaining its investment in the investee.

Variable Interest Entities

The Company accounts for the investments it makes in certain legal entities in which equity investors do not have 1) sufficient equity at risk for the legal entity to finance its activities without additional subordinated financial support or, 2) as a group, the holders of the equity investment at risk do not have either the power, through voting or similar rights, to direct the activities of the legal entity that most significantly impact the entity's economic performance or, 3) the obligation to absorb the expected losses of the legal entity or the right to receive expected residual returns of the legal entity. These certain legal entities are referred to as "variable interest entities", or "VIEs".

The Company would consolidate the results of any such entity in which it determined that it has a controlling financial interest. The Company would have a "controlling financial interest" in such an entity if the Company had both the power to direct the activities that most significantly affect the VIE's economic performance and the obligation to absorb the losses of, or right to receive benefits from, the VIE that could be potentially significant to the VIE. On a quarterly basis, the Company reassesses whether it has a controlling financial interest in any investments it has in these certain legal entities.

Income Taxes

The income tax provision is computed on the basis of the various tax jurisdictions' income or loss before income taxes. Deferred income taxes reflect the tax effects of differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes, as well as the tax effects of net operating losses and tax credit carryforwards. The Company uses judgment and assumptions to determine if valuation allowances for deferred income tax assets are required, if their realization is not more likely than not, by considering future market growth, forecasted operations, future taxable income, and the amounts of earnings in the tax jurisdictions in which it operates.

The Company considers income taxes in each of the tax jurisdictions in which it operates in order to determine its effective income tax rate. Current income tax exposure is identified and temporary differences resulting from differing treatments of items for tax and financial reporting purposes are assessed. These differences result in deferred tax assets and liabilities, which are included in the Company's consolidated balance sheets. Additionally, the Company evaluates the potential realization of deferred income tax assets from future taxable income and establishes valuation allowances if their realization is deemed not more likely than not. Accordingly, income taxes charged against earnings may have been impacted by changes in the valuation allowances. Significant management estimates and judgment are required in determining any valuation allowances recorded against net deferred tax assets.

The Company accounts for uncertain tax positions by recording a liability for unrecognized tax benefits resulting from uncertain tax positions taken, or expected to be taken, in its tax returns. The Company includes any applicable interest and penalties related to uncertain tax positions in its income tax provision.

Revenue Recognition

The Company recognizes revenue when there is persuasive evidence that an arrangement exists, delivery has occurred, the sales price is fixed or determinable, and collectability is reasonably assured. Delivery is determined by the shipping terms of the individual sales transactions. For sales with FOB destination shipping terms, delivery occurs when the Company's product reaches its destination and is received by the customer. For sales with FOB shipping point terms, delivery occurs when the Company's product is received by the common carrier. The Company uses judgment when estimating the effect on revenue of discounts and product warranty obligations, both of which are accrued when the related revenue is recognized.

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

Share-based Compensation

The Company recognizes share-based compensation expense over the service period that the awards are expected to vest. Share-based compensation expense includes the estimated effects of forfeitures, which are adjusted over the requisite service period to the extent actual forfeitures differ, or are expected to differ, from such estimates. Changes in estimated forfeitures are recognized in the period of change and will also impact the amount of expense to be recognized in future periods. Determining the appropriate option pricing model, calculating the grant date fair value of share-based awards and estimating forfeiture rates requires considerable judgment, including the estimations of stock price volatility and the expected term of options granted.

The Company uses the Black-Scholes option pricing model to value employee stock options. The Company estimates stock price volatility based on daily averages of its historical volatility over a term approximately equal to the estimated time period the grant will remain outstanding. The expected term of options and forfeiture rate assumptions are derived from historical data.

Effect of Recent Accounting Pronouncements

There have been no recent accounting pronouncements whose adoption is expected to affect the Company's financial statements or related disclosures.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

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

Foreign Currency Exchange Rate Risk

The Company conducts business in several major international currencies throughout its worldwide operations and its financial performance may be affected by fluctuations in the exchange rates of these currencies. Changes in exchange rates can positively or negatively affect the Company's sales, operating margins, assets, liabilities, and equity. The functional currencies of the Company's Asian subsidiaries are the Korean won, the New Taiwan dollar and the Singapore dollar. The functional currencies of the Company's European subsidiaries are the British pound and the euro.

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

The Company's primary net foreign currency exposures as of November 3, 2013, included the Korean won, the Japanese yen, the New Taiwan dollar, the Singapore dollar, the British pound, and the euro. As of November 3, 2013, a 10% adverse movement in the value of these currencies against the U.S. dollar would have resulted in a net unrealized pre-tax loss of \$3.1 million. The Company does not believe that a 10% change in the exchange rates of other non-U.S. dollar currencies would have a material effect on its consolidated financial position, results of operations, or cash flows.

Interest Rate Risk

At November 3, 2013, the Company had \$21.3 million in variable rate borrowings, which was repaid in full in December 2013. A 10% change in interest rates would not have had a material effect on the Company's consolidated financial position, results of operations, or cash flows in the year ended November 3, 2013.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders Photronics, Inc. Brookfield, Connecticut

We have audited the accompanying consolidated balance sheets of Photronics, Inc. and subsidiaries (the "Company") as of November 3, 2013 and October 28, 2012, and the related consolidated statements of income, comprehensive income, equity and cash flows for each of the three fiscal years ended November 3, 2013, October 28, 2012 and October 30, 2011. We also have audited the Company's internal control over financial reporting as of November 3, 2013, based on criteria established in Internal Control — Integrated Framework (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting in Item 9A. Our responsibility is to express an opinion on these financial statements and an opinion on the Company's internal control over financial reporting based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Photronics, Inc. and subsidiaries as of November 3, 2013 and October 28, 2012, and the results of their operations and their cash flows for each of the three fiscal years ended November 3, 2013, October 28, 2012 and October 30, 2011, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of November 3, 2013 based on the criteria established in Internal Control — Integrated Framework (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission.

/s/ Deloitte & Touche LLP

**Hartford, Connecticut
January 3, 2014**

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

	<u>November 3, 2013</u>	<u>October 28, 2012</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 215,615	\$ 218,043
Accounts receivable, net of allowance of \$3,541 in 2013 and \$3,902 in 2012	73,357	75,685
Inventories	18,849	17,702
Deferred income taxes	1,082	1,199
Other current assets	9,563	7,165
Total current assets	<u>318,466</u>	<u>319,794</u>
Property, plant and equipment, net	422,740	380,808
Investment in joint venture	93,124	93,252
Intangible assets, net	34,080	37,384
Deferred income taxes	12,455	11,395
Other assets	5,064	6,601
Total assets	<u>\$ 885,929</u>	<u>\$ 849,234</u>
LIABILITIES AND EQUITY		
Current liabilities:		
Current portion of long-term borrowings	\$ 11,818	\$ 7,781
Accounts payable	59,210	42,235
Payables – related parties	9,211	10,796
Accrued liabilities	24,348	24,701
Total current liabilities	<u>104,587</u>	<u>85,513</u>
Long-term borrowings	182,203	168,956
Deferred income taxes	1,007	661
Other liabilities	10,301	8,103
Total liabilities	<u>298,098</u>	<u>263,233</u>
Commitments and contingencies		
Equity:		
Preferred stock, \$0.01 par value, 2,000 shares authorized, none issued and outstanding	-	-
Common stock, \$0.01 par value, 150,000 shares authorized, 61,083 shares issued and outstanding at November 3, 2013, and 60,213 shares issued and outstanding at October 28, 2012	611	602
Additional paid-in capital	498,861	493,411
Retained earnings	59,439	41,473
Accumulated other comprehensive income	26,403	15,900
Total Photronics, Inc. shareholders' equity	<u>585,314</u>	<u>551,386</u>
Noncontrolling interests	2,517	34,615
Total equity	<u>587,831</u>	<u>586,001</u>
Total liabilities and equity	<u>\$ 885,929</u>	<u>\$ 849,234</u>

See accompanying notes to consolidated financial statements.

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

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net sales	\$ 422,180	\$ 450,439	\$ 512,020
Cost and expenses:			
Cost of sales	(322,540)	(338,519)	(375,806)
Selling, general and administrative	(48,213)	(46,706)	(45,240)
Research and development	(20,758)	(19,371)	(15,507)
Consolidation, restructuring and related charges	-	(1,428)	-
Operating income	30,669	44,415	75,467
Other income (expense):			
Interest expense	(7,756)	(7,488)	(7,258)
Interest and other income (expense), net	3,892	3,721	2,949
Debt extinguishment loss	-	-	(35,259)
Income before income tax provision	26,805	40,648	35,899
Income tax provision	(7,229)	(10,793)	(15,691)
Net income	19,576	29,855	20,208
Net income attributable to noncontrolling interests	(1,610)	(1,987)	(3,979)
Net income attributable to Photronics, Inc. shareholders	<u>\$ 17,966</u>	<u>\$ 27,868</u>	<u>\$ 16,229</u>
Earnings per share:			
Basic	<u>\$ 0.30</u>	<u>\$ 0.46</u>	<u>\$ 0.28</u>
Diluted	<u>\$ 0.29</u>	<u>\$ 0.44</u>	<u>\$ 0.28</u>
Weighted-average number of common shares outstanding:			
Basic	<u>60,644</u>	<u>60,055</u>	<u>57,030</u>
Diluted	<u>61,599</u>	<u>76,464</u>	<u>58,458</u>

See accompanying notes to consolidated financial statements.

PHOTRONICS, INC. AND SUBSIDIARIES
Consolidated Statements of Comprehensive Income
(in thousands)

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net income	\$ 19,576	\$ 29,855	\$ 20,208
Other comprehensive income, net of tax of \$0:			
Foreign currency translation adjustments	9,805	7,188	3,267
Amortization of cash flow hedge	128	128	128
Other	54	(109)	(35)
Total other comprehensive income, net of tax	9,987	7,207	3,360
Comprehensive income	29,563	37,062	23,568
Less: comprehensive income attributable to noncontrolling interests	858	3,387	4,196
Comprehensive income attributable to Photronics, Inc. shareholders	<u>\$ 28,705</u>	<u>\$ 33,675</u>	<u>\$ 19,372</u>

See accompanying notes to consolidated financial statements.

PHOTRONICS, INC. AND SUBSIDIARIES
Consolidated Statements of Equity
Years Ended November 3, 2013, October 28, 2012 and October 30, 2011
(in thousands)

	<u>Common Stock</u>		<u>Additional Paid-In Capital</u>	<u>Retained Earnings (Accumulated Deficit)</u>	<u>Accumulated Other Comprehensive Income</u>	<u>Non- Controlling Interests</u>	<u>Total Equity</u>
	<u>Shares</u>	<u>Amount</u>					
Balance at October 31, 2010	53,779	\$ 538	\$ 436,825	\$ (2,624)	\$ 7,062	\$ 54,142	\$ 495,943
Net income	-	-	-	16,229	-	3,979	20,208
Other comprehensive income	-	-	-	-	3,143	217	3,360
Common stock issued to extinguish debt	5,229	52	45,585	-	-	-	45,637
Sale of common stock through employee stock option and purchase plan	440	5	851	-	-	-	856
Restricted stock awards vestings and expense	81	1	1,035	-	-	-	1,036
Share-based compensation expense	-	-	1,422	-	-	-	1,422
Common stock warrants exercised	122	1	1,157	-	-	-	1,158
Repurchase of common stock of subsidiary	-	-	(201)	-	(34)	(9,629)	(9,864)
Balance at October 30, 2011	<u>59,651</u>	<u>597</u>	<u>486,674</u>	<u>13,605</u>	<u>10,171</u>	<u>48,709</u>	<u>559,756</u>
Net income	-	-	-	27,868	-	1,987	29,855
Other comprehensive income	-	-	-	-	5,807	1,400	7,207
Sale of common stock through employee stock option and purchase plan	277	3	542	-	-	-	545
Restricted stock awards vestings and expense	108	1	901	-	-	-	902
Share-based compensation expense	-	-	2,258	-	-	-	2,258
Common stock warrants exercised	177	1	1,051	-	-	-	1,052
Repurchase of common stock of subsidiary	-	-	1,985	-	(78)	(17,481)	(15,574)
Balance at October 28, 2012	<u>60,213</u>	<u>602</u>	<u>493,411</u>	<u>41,473</u>	<u>15,900</u>	<u>34,615</u>	<u>586,001</u>
Net income	-	-	-	17,966	-	1,610	19,576
Other comprehensive income	-	-	-	-	10,740	(753)	9,987
Sale of common stock through employee stock option and purchase plan	397	4	880	-	-	-	884
Restricted stock awards vestings and expense	158	2	1,281	-	-	-	1,283
Share-based compensation expense	-	-	2,692	-	-	-	2,692
Common stock warrants exercised	315	3	(3)	-	-	-	-
Repurchase of common stock of subsidiary	-	-	600	-	(237)	(32,955)	(32,592)
Balance at November 3, 2013	<u>61,083</u>	<u>\$ 611</u>	<u>\$ 498,861</u>	<u>\$ 59,439</u>	<u>\$ 26,403</u>	<u>\$ 2,517</u>	<u>\$ 587,831</u>

See accompanying notes to consolidated financial statements.

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

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Cash flows from operating activities:			
Net income	\$ 19,576	\$ 29,855	\$ 20,208
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization of property, plant and equipment	65,994	78,623	86,661
Amortization of deferred financing costs and intangible assets	6,948	6,586	6,799
Debt extinguishment loss	-	-	27,399
Consolidation, restructuring and related charges	-	262	-
Share-based compensation	3,975	3,160	2,458
Deferred income taxes	(266)	(615)	(224)
Changes in assets and liabilities:			
Accounts receivable	2,400	11,190	(1,806)
Inventories	(891)	4,683	(6,544)
Other current assets	(2,744)	(79)	223
Accounts payable, accrued liabilities and other	4,409	(1,116)	1,379
Net cash provided by operating activities	<u>99,401</u>	<u>132,549</u>	<u>136,553</u>
Cash flows from investing activities:			
Purchases of property, plant and equipment	(63,792)	(96,978)	(82,121)
Investment in joint venture	-	(13,397)	(18,271)
Payments for intangible assets	(2,173)	(27)	(95)
Other	(272)	(1,541)	(250)
Net cash used in investing activities	<u>(66,237)</u>	<u>(111,943)</u>	<u>(100,737)</u>
Cash flows from financing activities:			
Proceeds from long-term borrowings	-	25,000	17,000
Proceeds from convertible debt offering	-	-	115,000
Purchase of common stock of subsidiary	(32,374)	(15,598)	(9,878)
Repayments of long-term borrowings	(8,314)	(5,293)	(64,107)
Proceeds from share-based arrangements	884	653	828
Payments of deferred financing fees	(40)	(198)	(117)
Payments of expenses related to debt offering	-	-	(4,201)
Net cash provided by (used in) financing activities	<u>(39,844)</u>	<u>4,564</u>	<u>54,525</u>
Effects of exchange rate changes on cash and cash equivalents	4,252	2,945	642
Net increase (decrease) in cash and cash equivalents	<u>(2,428)</u>	<u>28,115</u>	<u>90,983</u>
Cash and cash equivalents at beginning of year	218,043	189,928	98,945
Cash and cash equivalents at end of year	<u>\$ 215,615</u>	<u>\$ 218,043</u>	<u>\$ 189,928</u>
Supplemental disclosure of non-cash information:			
Capital lease obligation for purchases of property, plant and equipment	\$ 26,356	-	\$ 21,248
Accrual for property, plant and equipment purchased during year	17,502	\$ 5,052	6,869
Deposit related to facility purchase	-	2,000	-
Common stock issued to extinguish debt	-	-	20,234

See accompanying notes to consolidated financial statements.

PHOTRONICS, INC. AND SUBSIDIARIES
Notes to Consolidated Financial Statements
Years Ended November 3, 2013, October 28, 2012 and October 30, 2011
(in thousands, except share amounts)

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Business

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

Consolidation

The accompanying consolidated financial statements include the accounts of Photronics, Inc. and its majority-owned subsidiaries that the Company controls. All 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 Instruments and Hedging Activities

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

Fiscal Year

The Company's fiscal year ends on the Sunday closest to October thirty-first, and, as a result, a 53-week year occurs every 5 to 6 years. Fiscal year 2013 included 53 weeks, while fiscal years 2012 and 2011 each included 52 weeks.

Cash and Cash Equivalents

Cash and cash equivalents include cash and highly liquid investments purchased with an original maturity of 3 months or less. The carrying values of cash equivalents approximate their fair values due to the short-term maturities of these instruments.

Inventories

Inventories are primarily comprised of raw materials and are stated at the lower of cost, determined under the first-in, first-out ("FIFO") method, or market.

Property, Plant and Equipment

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

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

Intangible Assets

Intangible assets consist primarily of a technology license agreement, a supply agreement and acquisition-related intangibles. These assets are stated at fair value as of the date acquired less accumulated amortization. Amortization is calculated based on the estimated useful lives of the assets, which range from 3 to 15 years, using the straight-line method or another method that more fairly represents the utilization of the assets.

The Company periodically evaluates the remaining useful lives of its intangible assets to determine whether events or circumstances warrant a revision to the remaining periods of amortization. In the event that the estimate of an intangible asset's remaining useful life has changed, the remaining carrying amount of the intangible asset is amortized prospectively over that revised remaining useful life. If it is determined that an intangible asset has an indefinite useful life, that intangible asset would be subject to impairment testing annually or whenever events or circumstances indicate that the carrying value may not, based on future undiscounted cash flows or market factors, be recoverable, and an impairment loss would be recorded in the period so determined. The measurement of the impairment loss would be based on the fair value of the intangible asset.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Determination of recoverability is based on the Company's judgment and estimates of undiscounted future cash flows resulting from the use of the assets and their eventual disposition. Measurement of an impairment loss for long-lived assets that management expects to hold and use is based on the fair value of the assets. The carrying values of assets determined to be impaired are reduced to their estimated fair values. Fair values of any impaired assets would generally be determined using a market or income approach.

Business Combinations

When acquiring other businesses or participating in mergers or joint ventures in which the Company is deemed to be the acquirer, the Company generally recognizes identifiable assets acquired, liabilities assumed and any noncontrolling interests at their acquisition date fair values, and separately from any goodwill that may be required to be recognized. If applicable, goodwill, when recognizable, would be measured as the excess amount of any consideration transferred, which is generally measured at fair value, over the acquisition date fair values of the identifiable assets acquired and liabilities assumed.

Accounting for such transactions requires the Company's management to make significant assumptions and estimates and, although the Company believes any estimates and assumptions it makes to be reasonable and appropriate at the time they are made, unanticipated events and circumstances may arise that affect their accuracy, causing actual results to differ from those estimated by the Company. When required, the Company will adjust the values of the assets acquired and liabilities assumed against the acquisition gain or goodwill, as initially recorded, for a period of up to one year after the transaction.

Costs incurred to effect a merger or acquisition, such as legal, accounting, valuation and other third party costs, as well as internal general and administrative costs incurred are charged to expense in the periods incurred. Costs incurred to issue any debt and equity securities are recognized in accordance with other applicable generally accepted accounting principles.

Investments in Joint Ventures

The financial results of investments in joint ventures of which the Company has a controlling financial interest are included in the Company's consolidated financial statements. Investments in joint ventures over which the Company has the ability to exercise significant influence and that, in general, are at least 20 percent owned are accounted for under the equity method. An impairment loss would be recognized whenever a decrease in the fair value of such an investment below its carrying amount is determined to be other than temporary. In judging "other than temporary," the Company would consider the length of time and the extent to which the fair value of the investment has been less than the carrying amount of the investment, the near-term and longer-term operating and financial prospects of the investee, and the Company's longer-term intent of retaining its investment in the investee.

Variable Interest Entities

The Company accounts for the investments it makes in certain legal entities in which equity investors do not have 1) sufficient equity at risk for the legal entity to finance its activities without additional subordinated financial support or, 2) as a group, the holders of the equity investment at risk do not have either the power, through voting or similar rights, to direct the activities of the legal entity that most significantly impact the entity's economic performance or, 3) the obligation to absorb the expected losses of the legal entity or the right to receive expected residual returns of the legal entity. These certain legal entities are referred to as "variable interest entities", or "VIEs".

The Company would consolidate the results of any such entity in which it determined that it has a controlling financial interest. The Company would have a "controlling financial interest" in such an entity when the Company has both the power to direct the activities that most significantly affect the VIE's economic performance and the obligation to absorb the losses of, or right to receive benefits from, the VIE that could be potentially significant to the VIE. On a quarterly basis, the Company reassesses whether it has a controlling financial interest in any investments it has in these certain legal entities.

Income Taxes

The income tax provision is computed on the basis of the various tax jurisdictions' income or loss before income taxes. Deferred income taxes reflect the tax effects of differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes, as well as the tax effects of net operating losses and tax credit carryforwards. The Company uses judgment and assumptions to determine if valuation allowances for deferred income tax assets are required, if their realization is not more likely than not, by considering future market growth, forecasted operations, future taxable income, and the amount of earnings in the tax jurisdictions in which it operates.

The Company considers income taxes in each of the tax jurisdictions in which it operates in order to determine its effective income tax rate. Current income tax exposure is identified and temporary differences resulting from differing treatments of items for tax and financial reporting purposes are assessed. These differences result in deferred tax assets and liabilities, which are included in the Company's consolidated balance sheets. Additionally, the Company evaluates the potential realization of deferred income tax assets from future taxable income and establishes valuation allowances if their realization is deemed not more likely than not. Accordingly, income taxes charged against earnings may have been impacted by changes in the valuation allowance. Significant management estimates and judgment are required in determining any valuation allowances recorded against net deferred tax assets.

The Company accounts for uncertain tax positions by recording a liability for unrecognized tax benefits resulting from uncertain tax positions taken, or expected to be taken, in its tax returns. The Company includes any applicable interest and penalties related to uncertain tax positions in its income tax provision.

Earnings Per Share

Basic earnings per share ("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 certain share-based payment awards or financial instruments were exercised, earned or converted.

Share-Based Compensation

The Company recognizes share-based compensation expense over the service period that the awards are expected to vest. Share-based compensation expense includes the estimated effects of forfeitures, which are adjusted over the requisite service period to the extent actual forfeitures differ, or are expected to differ, from such estimates. Changes in estimated forfeitures are recognized in the period of change and will also impact the amount of expense to be recognized in future periods. Determining the appropriate option pricing model, calculating the grant date fair value of share-based awards and estimating forfeiture rates requires considerable judgment, including the estimations of stock price volatility and the expected term of options granted.

The Company uses the Black-Scholes option pricing model to value employee stock options. The Company estimates stock price volatility based on daily averages of its historical volatility over a term approximately equal to the estimated time period the grant will remain outstanding. The expected term of options and forfeiture rate assumptions are derived from historical data.

Research and Development

Research and development costs are expensed as incurred, and consist primarily of global development efforts related to high-end process technologies for advanced sub-wavelength reticle solutions for IC photomask technologies. Research and development expenses also include the amortization of the carrying value of a technology license agreement with Micron Technology, Inc. ("Micron"). Under this technology license agreement, the Company has access to certain photomask technology developed by Micron.

Foreign Currency Translation

The Company's international 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 in accumulated other comprehensive income, a component of equity. The effects of changes in exchange rates on foreign currency transactions, which are included in interest and other income (expense), net were a net gain of \$0.5 million, \$0.2 million and \$0.4 million in fiscal years 2013, 2012 and 2011, respectively.

Noncontrolling Interests

Noncontrolling interests represents the minority shareholders' proportionate share in the equity of the Company's two majority-owned subsidiaries, PK Ltd. ("PKL") in Korea of which noncontrolling shareholders owned approximately 0.3% as of November 3, 2013 and October 28, 2012, and Photronics Semiconductor Mask Corporation ("PSMC") in Taiwan, of which noncontrolling interests owned 1.37% and 27.91%, as of November 3, 2013 and October 28, 2012, respectively. The effect on its equity of the change in the Company's ownership interest in PSMC is presented in Note 15.

Revenue Recognition

The Company recognizes revenue when there is persuasive evidence that an arrangement exists, delivery has occurred, the sales price is fixed or determinable, and collectability is reasonably assured. Delivery is determined by the shipping terms of the individual sales transactions. For sales with FOB destination shipping terms, delivery occurs when the Company's product reaches its destination and is received by the customer. For sales with FOB shipping point terms, delivery occurs when the Company's product is received by the common carrier. The Company uses judgment when estimating the effect on revenue of discounts and product warranty obligations, both of which are accrued when the related revenue is recognized.

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

Sales Taxes – The Company reports its revenues net of any sales taxes billed to its customers.

NOTE 2 - PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consists of the following:

	November 3, 2013	October 28, 2012
Land	\$ 8,692	\$ 8,538
Buildings and improvements	103,676	101,409
Machinery and equipment	1,225,091	1,197,854
Leasehold improvements	4,179	5,854
Furniture, fixtures and office equipment	11,546	13,484
Construction in progress	97,319	26,642
	<u>1,450,503</u>	<u>1,353,781</u>
Less accumulated depreciation and amortization	<u>1,027,763</u>	<u>972,973</u>
	<u>\$ 422,740</u>	<u>\$ 380,808</u>

Property under capital leases are included in above property, plant and equipment as follows:

	November 3, 2013	October 28, 2012
Machinery and equipment	\$ 21,327	\$ 21,327
Construction in progress	34,918	-
	<u>56,245</u>	<u>21,327</u>
Less accumulated amortization	<u>4,932</u>	<u>2,758</u>
	<u>\$ 51,313</u>	<u>\$ 18,569</u>

Depreciation expense for property, plant and equipment (excluding property under capital leases) was \$63.8 million, \$73.8 million and \$77.0 million in fiscal years 2013, 2012 and 2011, respectively. Amortization expense for property under capital leases was \$2.2 million, \$4.8 million and \$9.7 million in fiscal years 2013, 2012 and 2011, respectively.

NOTE 3 - INTANGIBLE ASSETS

Intangible assets include assets related to the purchase of additional shares of PKL and the investment to form the MP Mask joint venture. Amortization expense of intangible assets was \$5.5 million, \$5.0 million and \$5.3 million in fiscal years 2013, 2012 and 2011, respectively.

Intangible assets consist of:

	Gross Amount	Accumulated Amortization	Net Amount
As of November 3, 2013			
Technology license agreement	\$ 59,616	\$ 29,477	\$ 30,139
Customer lists	7,210	5,599	1,611
Supply agreement	6,959	6,381	578
Software and other	5,728	3,976	1,752
	<u>\$ 79,513</u>	<u>\$ 45,433</u>	<u>\$ 34,080</u>
As of October 28, 2012			
Technology license agreement	\$ 59,616	\$ 25,503	\$ 34,113
Customer lists	7,210	4,876	2,334
Supply agreement	6,959	6,157	802
Software and other	3,491	3,356	135
	<u>\$ 77,276</u>	<u>\$ 39,892</u>	<u>\$ 37,384</u>

Intangible asset amortization over the next five years is estimated to be as follows:

Fiscal Years:

2014	\$ 5,689
2015	5,689
2016	4,497
2017	3,974
2018	3,974

NOTE 4 - JOINT VENTURE, TECHNOLOGY LICENSE AND OTHER AGREEMENTS WITH MICRON TECHNOLOGY, INC.

In May 2006, Photronics and Micron Technology, Inc. ("Micron") entered into the MP Mask joint venture ("MP Mask"), which develops and produces photomasks for leading-edge and advanced next generation semiconductors. At the time of the formation of the joint venture, the Company also entered into both an agreement to license photomask technology developed by Micron and certain supply agreements.

This joint venture is a variable interest entity ("VIE") (as that term is defined in the Accounting Standards Codification ("ASC")) because all costs of the joint venture are passed on to the Company and Micron through purchase agreements they have entered into with the joint venture, and it is dependent upon the Company and Micron for any additional cash requirements. On a quarterly basis the Company reassesses whether its interest in MP Mask gives it a controlling financial interest in this VIE. The purpose of this quarterly reassessment is to identify the primary beneficiary (which is defined in the ASC as the entity that consolidates a VIE) of the VIE. As a result of the reassessments in fiscal year 2013, the Company determined that Micron is still the primary beneficiary of the VIE, by virtue of its tie-breaking voting rights within MP Mask's Board of Managers, thereby giving it the power to direct the activities of MP Mask that most significantly impact its economic performance, including its decision making authority in the ordinary course of business and its purchasing the majority of products produced by the VIE.

The Company has utilized MP Mask for both high-end IC photomask production and research and development purposes. MP Mask charges its variable interest holders based on their actual usage of its facility and charges separately for any research and development activities it engages in at the requests of its owners.

MP Mask is governed by a Board of Managers, appointed by Micron and the Company. Since MP Mask's inception, Micron, as a result of its majority ownership, has held majority voting power on the Board of Managers. The voting power held by each party is subject to change as ownership interests change. Under the MP Mask joint venture operating agreement, the Company may be required to make additional capital contributions to MP Mask up to the maximum amount defined in the operating agreement. However, should the Board of Managers determine that further additional funding is required, MP Mask shall pursue its own financing. If MP Mask is unable to obtain its own financing, it may request additional capital contributions from the Company. Should the Company choose not to make a requested contribution to MP Mask, its ownership percentage may be reduced. During fiscal 2012 the Company made additional capital contributions of \$13.4 million to the MP Mask joint venture, which were primarily related to capital calls made by the joint venture. The Company did not make any contributions to MP Mask in fiscal 2013 and it did not receive any distributions from MP Mask during fiscal 2013 or fiscal 2012.

The Company's investment in the VIE, which represents its maximum exposure to loss, was \$93.1 million and \$93.3 million at November 3, 2013 and October 28, 2012, respectively. These amounts are reported in the Company's consolidated balance sheets as Investment in joint venture. The Company recorded losses from its investment in MP Mask of \$0.1 million in fiscal years 2013 and 2012 and income of \$0.6 million in fiscal year 2011. Income (loss) from MP Mask is included in Interest and other income, net, in the consolidated statements of income.

As of November 3, 2013, the Company owed MP Mask \$4.5 million and had a receivable from Micron of \$4.9 million, both primarily related to the aforementioned supply agreements. The Company, in 2013, recorded \$0.9 million of commission revenue earned under the supply agreements it has with Micron and MP Mask, and amortization of \$0.3 million of the related supply agreement intangible asset. In 2013 the Company also recorded cost of sales in the amount of \$8.7 million for photomasks produced by MP Mask for the Company's customers, and incurred expenses of \$1.6 million for research and development activities and other goods and services purchased from MP Mask by the Company. In 2013 the Company purchased equipment from MP Mask for \$6.1 million.

As of October 28, 2012, the Company owed MP Mask \$6.4 million and had a receivable from Micron of \$9.0 million, both primarily related to the aforementioned supply agreements. The Company, in 2012, recorded \$1.6 million of commission revenue earned under the supply agreements it has with Micron and MP Mask, and amortization of \$0.4 million of the related supply agreement intangible asset. The Company, for certain sales made during 2012, also recorded cost of sales in the amount of \$7.6 million for photomasks produced by MP Mask for the Company's customers, and incurred expenses of \$2.0 million for research and development activities and other goods and services purchased from MP Mask by the Company. In 2012 the Company purchased equipment from MP Mask for \$1.9 million, of which \$1.5 million was recorded as the cost of the equipment and \$0.4 million was recorded as an investment in joint venture.

The Company, in 2011, recorded \$1.7 million of commission revenue earned under the supply agreements it has with Micron and MP Mask, and amortization of \$0.5 million of the related supply agreement intangible asset. The Company, for certain sales made during 2011, also recorded cost of sales in the amount of \$18.5 million for photomasks produced by MP Mask for the Company's customers, and incurred expenses of \$3.1 million for research and development activities and other goods and services purchased from MP Mask by the Company. In 2011, the Company purchased equipment from MP Mask for \$4.6 million, of which \$2.3 million was recorded as the cost of the equipment and \$2.3 million was recorded as an investment in joint venture.

In the second quarter of fiscal 2012 the Company paid \$35 million to Micron in connection with the purchase of the U.S. nanoFab facility and the remaining term of the operating lease agreement through 2014 was cancelled.

Summarized financial information of MP Mask is presented below.

	As of October	
	2013	2012
Current assets	\$ 35,794	\$ 25,701
Noncurrent assets	177,769	170,226
Current liabilities	28,497	15,597
Noncurrent liabilities	-	-

	Year Ended October		
	2013	2012	2011
Net sales	\$ 77,900	\$ 84,216	\$ 79,766
Gross profit	4,663	1,799	2,649
Net income	4,735	831	6,691

NOTE 5 - ACCRUED LIABILITIES

Accrued liabilities consist of the following:

	<u>November 3, 2013</u>	<u>October 28, 2012</u>
Salaries, wages and related benefits	\$ 10,223	\$ 7,379
Income taxes	4,754	6,989
VAT and other taxes	3,019	2,228
Other	6,352	8,105
	<u>\$ 24,348</u>	<u>\$ 24,701</u>

NOTE 6 - DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

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

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

In May 2009, in connection with an amendment to its credit facility, the Company issued 2.1 million warrants, each exercisable for one share of the Company's common stock at an exercise price of \$0.01 per share. Forty percent of the warrants were exercisable upon issuance, and the remaining balance was to become exercisable in twenty percent increments at various points in time after October 31, 2009. As a result of certain net cash settleable put provisions within the warrant agreement, the warrants were recorded as a liability in the Company's consolidated balance sheet. As of the issuance date and for future periods that such warrants remained outstanding, the Company had adjusted the liability based upon the current fair value of the warrants, with any changes in their fair value being recognized in earnings. Due to the warrants' exercise price of \$0.01 per share, their fair value approximated the market price of the Company's common stock. Approximately 1.2 million of these warrants were cancelled as a result of the Company's early repayment of certain amounts under its credit facility during the year ended November 1, 2009, and the associated liability was reduced accordingly. All of the 0.2 million of these warrants that remained outstanding were exercised in fiscal 2012. See Note 8 for disclosures related to other common stock warrants.

A portion of an existing loss on a cash flow hedge, in the amount of \$0.1 million, is expected to be reclassified into earnings over the next twelve months.

The table below presents the effect of derivative instruments on the Company's consolidated statements of income for the years ended November 3, 2013, October 28, 2012 and October 30, 2011.

Derivatives Not Designated as Hedging Instruments Under ASC 815	Location of Gain (Loss) Recognized Related to Derivative Instruments	Amount of Gain (Loss) Recognized Related to Derivative Instruments		
		Year Ended		
		November 3, 2013	October 28, 2012	October 30, 2011
Warrants on common stock	Interest and other income (expense), net	\$ -	\$ 94	\$ (424)

NOTE 7 - LONG-TERM BORROWINGS

Long-term borrowings consist of the following:

	November 3, 2013	October 28, 2012
3.25% convertible senior notes due in April 2016	\$ 115,000	\$ 115,000
2.77% capital lease obligation payable through July 2018	25,065	-
5.50% convertible senior notes due in October 2014	22,054	22,054
Term loan, which bears interest at a variable rate, as defined (2.69% at November 3, 2013), repaid in December 2013	21,250	23,750
3.09% capital lease obligation payable through March 2016	10,652	15,175
4.75% financing loan with customer	-	758
	194,021	176,737
Less current portion	11,818	7,781
	<u>\$ 182,203</u>	<u>\$ 168,956</u>

As of November 3, 2013, long-term borrowings, excluding capital lease obligations, mature as follows: \$2,500, \$24,554, \$117,500 and \$13,750 in fiscal years 2014, 2015, 2016 and 2017 respectively.

As of November 3, 2013, minimum lease payments under the Company's capital lease obligation were as follows:

Fiscal Years:

2014	\$ 10,218
2015	10,218
2016	7,076
2017	6,108
2018	4,228
	37,848
Less interest	2,131
Net minimum lease payments under capital leases	35,717
Less current portion of net minimum lease payments	9,318
Long-term portion of minimum lease payments	<u>26,399</u>

In August 2013 a \$26.4 million principal amount, five year capital lease commenced to fund the purchase of a high-end lithography tool. Payments under the capital lease, which bears interest at 2.77% are \$0.5 million per month through July 2018. Under the terms of the lease agreement, the Company must maintain the equipment in good working order, and is subject to a cross default with cross acceleration provision related to certain nonfinancial covenants incorporated in its credit facility. As of November 3, 2013, the total amount payable through the end of the lease term was \$26.8 million, of which \$25.1 million represented principal and \$1.7 million represented interest.

In March 2012 the Company, in connection with its purchase of the U.S. nanoFab facility (see Note 4 for further discussion), amended its credit facility (“the credit facility”) to include the addition of a \$25 million term loan that was to mature in March 2017. In December 2013, simultaneous with the new credit facility, the Company repaid the \$21.3 million balance of this term loan that was outstanding at November 3, 2013.

In December 2013 the Company amended its credit facility, which increased its limit to \$50 million with an expansion capacity to \$75 million, and extended its term to December 2018. The amended credit facility, which replaces the credit facility in effect at November 3, 2013, bears interest based on the Company’s total leverage ratio, at LIBOR plus a spread, as defined in the credit facility. The amended credit facility decreased the interest rate spread on borrowings, replaced the minimum fixed charge ratio covenant with a minimum interest coverage ratio and increased investment baskets, as defined, and continues to include a total leverage ratio and minimum unrestricted cash balance covenant. As of December 2013, the Company had no outstanding borrowings under the amended credit facility and \$50 million was available for borrowing. The amended credit facility is secured by substantially all of the Company’s assets located in the United States, as well as common stock the Company owns in certain of its foreign subsidiaries.

In March 2011 the Company amended its credit facility which, as then amended, included, among other things: i) a reduction of the aggregate commitments of the lenders from \$65 million to \$30 million; ii) a reduction of the applicable interest rates and modifications of the leverage ratios related thereto; iii) an extension of the maturity date to April 30, 2015; iv) an increase in the permitted amount of certain financed capital assets up to \$75 million outstanding at any one time; v) an allowance to issue the 3.25% convertible senior notes (discussed below); vi) an increase in the investments “basket” from \$15 million to \$25 million per year; vii) an allowance to repurchase the 5.5% convertible senior notes and other indebtedness; and viii) removal of the limitation on maximum last twelve months capital expenditures. The credit facility bore interest (2.69% at November 3, 2013), based on the Company’s total leverage ratio, at LIBOR plus a spread, as defined in the credit facility

In March 2011 the Company issued through a private offering pursuant to Rule 144A under the Securities Act of 1933, as amended, \$115 million aggregate principal amount of 3.25% convertible senior notes. The notes mature on April 1, 2016, and note holders may convert each \$1,000 principal amount of notes to approximately 96 shares of common stock (equivalent to an initial conversion price of \$10.37 per share of common stock) at any time prior to the close of business on the second scheduled trading day immediately preceding April 1, 2016. The conversion rate is subject to adjustment upon the occurrence of certain events, which are described in the indenture dated March 28, 2011. The Company is not required to redeem the notes prior to their maturity date. Interest on the notes accrues in arrears, and is paid semiannually through the notes’ maturity date. The net proceeds of the notes were approximately \$110.7 million, which were used, in part, to acquire \$35.4 million of the Company’s 5.5% convertible senior notes which were to mature on October 1, 2014, and to repay, in full, its then outstanding obligations under capital leases of \$19.8 million.

In June 2011 the Company acquired \$5.0 million of its 5.5% convertible senior notes in exchange for 0.7 million shares of its common stock with a fair value of \$6.5 million and cash of \$3.2 million (the note holders received approximately 148 shares and cash of \$647 for each \$1,000 note). The Company, in connection with this repurchase, recorded an extinguishment loss of \$5.0 million, which included the write off of deferred financing fees of \$0.3 million. The loss is included in other income (expense) in the Company's consolidated statements of income. In March 2011 the Company acquired \$30.4 million of its 5.5% convertible senior notes in exchange for 4.5 million shares of its common stock with a fair value of \$39.2 million and cash of \$19.7 million (the note holders received approximately 148 shares and cash of \$647 for each \$1,000 note). The Company, in connection with this repurchase, recorded an extinguishment loss of \$30.1 million, which included the write off of deferred financing fees of \$1.7 million. The loss is included in other income (expense) in the Company's consolidated statement of income.

In September 2009 the Company issued, through a public offering, \$57.5 million aggregate principal amount of 5.5% convertible senior notes, which were to mature on October 1, 2014. Under the terms of the offering, the note holders could convert each \$1,000 principal amount of notes to approximately 197 shares of common stock (equivalent to an initial conversion price of \$5.08 per share of common stock) on, or before, September 30, 2014. The conversion rate is subject to adjustment upon the occurrence of certain events which are described in the indenture dated September 16, 2009. The Company is not required to redeem the notes prior to their maturity. The net proceeds of this offering were approximately \$54.9 million, which were used to reduce amounts outstanding under the Company's credit facility. As discussed above, \$35.4 million aggregate principal amount of these notes were acquired by the Company during fiscal 2011. In addition, in December 2013 the Company entered into a new five year \$50 million credit facility. The Company intends to repay the remaining outstanding 5.5% convertible senior notes issued in September 2009 with borrowings against this new credit facility and, therefore, has classified as long-term the entire \$22.1 million of those notes that were outstanding as of November 3, 2013.

In April 2011 the Company entered into a five year, \$21.2 million capital lease for manufacturing equipment. Payments under the lease, which bears interest at 3.09%, are \$0.4 million per month through March 2016. The lease agreement provides that the Company must maintain the equipment in good working order, and includes a cross default with cross acceleration provision related to certain non-financial covenants incorporated in the Company's credit facility agreement. As of November 3, 2013, the total amount payable through the end of the lease term was \$11.1 million, of which \$10.7 million represented principal and \$0.4 million represented interest.

In January 2010 the Company borrowed \$3.7 million from a customer to purchase manufacturing equipment. This loan, which bore interest at 4.75%, was fully repaid during fiscal 2013 with product supplied to the customer. Product valued at \$0.8 million and \$1.0 million was shipped to the customer and applied against the loan during fiscal 2013 and 2012, respectively.

Interest payments were \$6.3 million, \$6.3 million and \$9.7 million in fiscal 2013, 2012 and 2011, respectively, including deferred financing cost payments of \$0.2 million and \$4.3 million in fiscal 2012 and 2011, respectively.

NOTE 8 - COMMON STOCK WARRANTS

In September 2009 the Company entered into two warrant agreements with Intel Capital Corporation to purchase a total of 750,000 shares of the Company's common stock. Under one warrant agreement 500,000 shares of the Company's common stock could be purchased at an exercise price of \$4.15 per share and under the second warrant agreement 250,000 shares of the Company's common stock could be purchased at an exercise price of \$5.08 per share. The warrant agreements were to expire in September 2014. Also in September 2009, the Company and Intel Corporation entered into an agreement to share technical and operations information regarding the development of the Company's products, the capabilities of the Company's photomask manufacturing lines and the alignment of photomask toolsets. Intel Capital Corporation also invested in the Company's convertible debt offering of September 2009. The warrants were recorded at their fair value on their date of grant, which was determined using the Black-Scholes option pricing model. In June 2013 Intel Capital Corporation exercised all of the warrants under both warrant agreements on a net share basis and received 0.3 million shares of the Company's common stock.

In conjunction with a May 2009 amendment to its credit facility, the Company also entered into a warrant agreement with its lenders. See Note 6 for further discussion of these warrants.

NOTE 9 - OPERATING LEASES

The Company leases various real estate and equipment under non-cancelable operating leases, for which rental expense was \$2.7 million in fiscal years 2013 and 2012 and \$2.9 million in fiscal year 2011. In fiscal 2012 the Company paid the former lessor \$35 million in connection with its purchase of the U.S. nanoFab, which reduced the Company's outstanding operating lease commitments by a total of \$15 million for fiscal years 2013 and 2014.

At November 3, 2013, future minimum lease payments under non-cancelable operating leases with initial terms in excess of one year are as follows:

2014	\$ 2,141
2015	1,897
2016	1,695
2017	1,361
2018	354
Thereafter	721
	<u>\$ 8,169</u>

See Note 7 for disclosures related to the Company's capital lease obligations.

NOTE 10 – SHARE-BASED COMPENSATION

In March 2007 the Company's shareholders approved a new share-based compensation plan ("Plan"), under which options, restricted stock, restricted stock units, stock appreciation rights, performance stock, performance units, and other awards based on, or related to, shares of the Company's common stock may be granted from shares authorized but unissued or shares previously issued and reacquired by the Company. A maximum of six million shares of common stock may be issued under the plan. Awards may be granted to officers, employees, directors, consultants, advisors, and independent contractors of the Company or its subsidiaries. In the event of a change in control (as defined in the Plan), the vesting of awards may be accelerated. The Plan, aspects of which are more fully described below, prohibits further awards from being issued under prior plans. The Company incurred total share-based compensation expenses of \$4.0 million, \$3.2 million and \$2.5 million in fiscal years 2013, 2012 and 2011, respectively. No share-based compensation cost was capitalized as part of an asset and no related income tax benefits were recorded during the fiscal years presented.

Stock Options

Option awards generally vest in one to four years, and have a ten year contractual term. All incentive and non-qualified stock option grants must have an exercise price no less than the market value of the underlying common stock on the date of grant. The grant date fair values of options are based on the closing prices of the Company's common stock on the date of grant using the Black-Scholes option pricing model. Expected volatility is based on the historical volatility of the Company's stock. The Company uses historical option exercise behavior and employee termination data to estimate expected term, which represents the period of time that the options granted are expected to remain outstanding. The risk-free rate of return for the estimated term of the option is based on the U.S. Treasury yield curve in effect at the date of grant.

The weighted-average inputs and risk-free rate of return ranges used to calculate the grant date fair values of options issued during fiscal years 2013, 2012 and 2011 are presented in the following table:

	<u>Year Ended</u>		
	<u>November 3, 2013</u>	<u>October 28, 2012</u>	<u>October 30, 2011</u>
Expected volatility	98.0%	102.1%	98.7%
Risk-free rate of return	0.5 – 1.4%	0.6 – 0.9%	0.7 – 1.9%
Dividend yield	0.0%	0.0%	0.0%
Expected term	4.3 years	4.3 years	4.2 years

A summary of option activity under the Plan as of November 3, 2013, and changes during the year then ended is presented as follows:

Options	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life	Aggregate Intrinsic Value
Outstanding at October 28, 2012	3,999,302	\$ 8.34		
Granted	616,500	5.78		
Exercised	(327,469)	1.54		
Cancelled and forfeited	(114,031)	10.84		
Outstanding at November 3, 2013	<u>4,174,302</u>	<u>\$ 8.43</u>	5.6 years	<u>\$ 10,198</u>
Exercisable at November 3, 2013	<u>2,691,323</u>	<u>\$ 9.83</u>	4.3 years	<u>\$ 6,639</u>
Expected to vest as of November 3, 2013	<u>1,325,098</u>	<u>\$ 8.52</u>	8.1 years	<u>\$ 3,192</u>

The weighted-average grant date fair value of options granted during fiscal years 2013, 2012 and 2011 were \$4.00, \$4.47 and \$4.75, respectively. The total intrinsic value of options exercised during fiscal years 2013, 2012 and 2011 was \$1.6 million, \$1.3 million and \$2.1 million, respectively.

The Company received cash from option exercises of \$0.5 million, \$0.3 million and \$0.4 million in fiscal years 2013, 2012 and 2011, respectively. As of November 3, 2013, the total unrecognized compensation cost of unvested option awards was approximately \$3.8 million. That cost is expected to be recognized over a weighted-average amortization period of 2.3 years.

Restricted Stock

The Company periodically grants restricted stock awards. The restrictions on these awards lapse over a service period that has ranged from less-than-one to eight years. The weighted-average grant date fair values of restricted stock awards issued during fiscal years 2013, 2012 and 2011 were \$5.48, \$6.28 and \$6.71, respectively. The total fair value of awards for which restrictions lapsed was \$1.3 million, \$0.5 million and \$0.5 million during fiscal years 2013, 2012 and 2011 respectively. As of November 3, 2013, the total compensation cost for restricted stock awards not yet recognized was approximately \$1.2 million. That cost is expected to be recognized over a weighted-average amortization period of 2.0 years.

A summary of the status of the Company's outstanding restricted stock awards as of November 3, 2013, is presented below:

Restricted Stock	Shares	Weighted-Average Fair Value at Grant Date
Outstanding at October 28, 2012	252,314	\$ 7.56
Granted	209,500	5.48
Vested	(157,937)	6.87
Cancelled	(250)	13.99
Outstanding at November 3, 2013	<u>303,627</u>	<u>6.48</u>
Expected to vest as of November 3, 2013	<u>275,291</u>	<u>6.42</u>

The Company's Employee Stock Purchase Plan ("ESPP") permits employees to purchase shares at 85% of the lower of the fair market value at the commencement of the offering or the last day of the payroll payment period. The maximum number of shares of common stock approved by the Company's shareholders to be purchased under the ESPP was increased from 0.9 million shares to 1.2 million shares during fiscal 2010. The vesting period for shares purchased under the ESPP is approximately one year. Under the ESPP, approximately 1.1 million shares had been issued through November 3, 2013, and approximately 63,000 shares are subject to outstanding subscriptions. As of November 3, 2013, the total compensation cost related to the ESPP not yet recognized was \$0.1 million, which is expected to be recognized in fiscal 2014.

NOTE 11 - EMPLOYEE RETIREMENT PLAN

The Company maintains a 401(k) Savings and Profit Sharing Plan ("401(k) Plan") which covers all full-time domestic employees who have completed three months of service and are 18 years of age or older. Under the terms of the 401(k) Plan, employees may contribute up to 50% of their salary, subject to certain maximum amounts, which will be matched by the Company at 50% of the employee's contributions that are not in excess of 4% of the employee's compensation. Employee and employer contributions vest upon contribution. Employer contributions amounted to \$0.4 million in fiscal years 2013, 2012 and 2011.

NOTE 12 - CONSOLIDATION, RESTRUCTURING AND RELATED CHARGES

In the first quarter of fiscal 2012 the Company ceased the manufacture of photomasks at its Singapore facility and, in connection therewith, recorded charges of \$1.4 million during fiscal 2012. This restructuring, which was comprised primarily of employee termination costs, was substantially completed in fiscal 2012.

The following table sets forth the Company's restructuring reserve, primarily related to its Singapore facility, as of November 3, 2013 and October 28, 2012, and reflects the activity affecting the reserve for the year then ended.

	Year Ended November 3, 2013			
	October 29, 2012	Charges	Utilized	November 3, 2013
Employee terminations and other	\$ 295	\$ -	\$ (265)	\$ 30
	<u>\$ 295</u>	<u>\$ -</u>	<u>\$ (265)</u>	<u>\$ 30</u>
	Year Ended October 28, 2012			
	October 31, 2011	Charges	Utilized	October 28, 2012
Employee terminations and other	\$ -	\$ 1,166	\$ (871)	\$ 295
Asset write-downs	-	262	(262)	-
	<u>\$ -</u>	<u>\$ 1,428</u>	<u>\$ (1,133)</u>	<u>\$ 295</u>

NOTE 13 - INCOME TAXES

The income before income tax provision consists of the following:

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
United States	\$ (14,164)	\$ (5,474)	\$ (20,396)
Foreign	40,969	46,122	56,295
	<u>\$ 26,805</u>	<u>\$ 40,648</u>	<u>\$ 35,899</u>

The income tax provision consists of the following:

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Current:			
Federal	\$ 208	\$ 81	\$ 291
State	65	(5)	74
Foreign	7,222	11,332	15,550
Deferred:			
Federal	-	-	-
State	(181)	-	-
Foreign	(85)	(615)	(224)
Total	<u>\$ 7,229</u>	<u>\$ 10,793</u>	<u>\$ 15,691</u>

The income tax provision differs from the amount computed by applying the statutory U.S. federal income tax rate to the income before income taxes as a result of the following:

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
U.S. federal income tax at statutory rate	\$ 9,382	\$ 14,227	\$ 12,564
Changes in valuation allowances	1,325	1,806	(8,334)
Distributions from foreign subsidiaries	1,957	2,073	1,925
State income taxes, net of federal benefit	267	(1,956)	503
Foreign tax rate differentials	(4,851)	(3,805)	(4,467)
Tax credits	(3,967)	(1,071)	(522)
Uncertain tax positions, including reserves, settlements and resolutions	1,471	1,984	1,499
Debt extinguishment losses	-	(2,879)	11,942
Equity based compensation	765	499	231
Other, net	880	(85)	350
	<u>\$ 7,229</u>	<u>\$ 10,793</u>	<u>\$ 15,691</u>

The effective tax rate differs from the U.S. statutory rate of 35% in fiscal years 2013 and 2012 primarily due to a higher level of earnings being taxed at lower statutory rates in foreign jurisdictions, combined with the benefit of various investment credits in certain foreign jurisdictions. The effective tax rate differs from the U.S. statutory rate of 35% in fiscal year 2011 primarily due to the impact of the non-deductible debt extinguishment losses related to the Company's acquisition of a portion of its 5.5% convertible senior notes and the impact of a foreign subsidiary's tax settlement, offset by a higher level of earnings taxed at lower statutory rates in foreign jurisdictions.

The net deferred income tax assets consist of the following:

	<u>November 3, 2013</u>	<u>October 28, 2012</u>
Deferred income tax assets :		
Net operating losses	\$ 57,631	\$ 56,252
Reserves not currently deductible	7,101	6,382
Alternative minimum tax credits	3,116	3,116
Tax credit carryforwards	7,051	4,785
Other	1,892	2,634
	<u>76,791</u>	<u>73,169</u>
Valuation allowances	<u>(56,661)</u>	<u>(55,536)</u>
	20,130	17,633
Deferred income tax liabilities:		
Undistributed earnings of foreign subsidiaries	(5,347)	(4,575)
Property, plant and equipment	(890)	(604)
Investments	(371)	(170)
Other	(992)	(351)
	<u>(7,600)</u>	<u>(5,700)</u>
Net deferred income tax assets	<u>\$ 12,530</u>	<u>\$ 11,933</u>
Reported as:		
Current deferred tax assets	\$ 1,082	\$ 1,199
Long-term deferred tax assets	12,455	11,395
Long-term deferred tax liabilities	<u>(1,007)</u>	<u>(661)</u>
	<u>\$ 12,530</u>	<u>\$ 11,933</u>

Unrecognized tax benefits associated with uncertain tax positions were \$4.9 million at November 3, 2013, of which \$1.7 million is recorded in other liabilities in the consolidated balance sheet, and \$3.2 million is recorded as a reduction to deferred tax assets and the related valuation allowance, and were \$3.9 million at October 28, 2012, of which \$1.9 million is recorded in other liabilities in the consolidated balance sheet, and \$2.0 million is recorded as a reduction to deferred tax assets and the related valuation allowance. If recognized, \$1.7 million of the benefits would favorably affect the Company's effective tax rate in future periods. Included in these amounts for both fiscal years 2013 and 2012 was \$0.1 million for interest and penalties. The Company includes any applicable interest and penalties related to uncertain tax positions in its income tax provision. Shortly after the close of the 2013 fiscal year, the Company reached a settlement with the relevant tax authorities regarding one of its non-US subsidiaries' 2010 tax year, as reflected below. As of November 3, 2013, the Company believes it is not reasonably possible that the total amounts of unrecognized tax benefits will significantly increase or decrease in the next twelve months. The Company is currently subject to examination by the U.S. for fiscal years 2011 and 2012. With respect to major foreign and state tax jurisdictions, the Company is no longer subject to tax authority examinations for years prior to fiscal year 2008.

A reconciliation of the beginning and ending amount of unrecognized tax benefits, excluding interest and penalties, is as follows:

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Balance at beginning of year	\$ 3,793	\$ 1,824	\$ 1,676
Additions (reductions) for tax positions in prior years	1,224	1,932	709
Additions based on current year tax positions	207	616	502
Settlements	(406)	(518)	(1,063)
Lapses of statutes of limitations	(61)	(61)	-
Balance at end of year	<u>\$ 4,757</u>	<u>\$ 3,793</u>	<u>\$ 1,824</u>

As of November 3, 2013, the Company had available U.S. Federal tax operating loss carryforwards of approximately \$129.8 million which expire between 2020 and 2033, and research and development tax credit carryforwards of approximately \$3.8 million which expire between 2018 and 2033. As of November 3, 2013, the Company also has U.S. state tax operating loss carryforwards of approximately \$193.0 million and foreign tax operating loss carryforwards of approximately \$40.9 million. These loss carryforwards expire between 2014 and 2033 with the exception of \$0.6 million that has an indefinite life.

The Company has established a valuation allowance for a portion of its deferred tax assets because it believes, based on the weight of all available evidence, that it is more likely than not that a portion of its net operating loss carryforwards may expire prior to utilization. The valuation allowance increased (decreased) by \$1.1 million, \$2.5 million and \$(8.2) million in fiscal years 2013, 2012 and 2011, respectively.

As of November 3, 2013, the Company had \$3.1 million of alternative minimum tax credit carryforwards that are available to offset future federal income taxes payable. The Company also has state tax credits available of \$4.9 million which, if they are not utilized, will begin to expire in 2014 and foreign investment tax credits of \$0.1 million.

As of November 3, 2013, the undistributed earnings of foreign subsidiaries included in consolidated retained earnings amounted to \$136.4 million, of which \$15.3 million of earnings is considered not to be permanently reinvested. The amount of undistributed earnings is calculated taking into account the net amount of earnings of the Company's foreign subsidiaries, considering its multi-tier subsidiary structure, and translating those earnings into U.S. dollars using exchange rates in effect as of the balance sheet date. During fiscal year 2008 a decision was made to not indefinitely reinvest earnings in certain foreign jurisdictions. No provision has been made for taxes due on the remaining undistributed earnings of \$121.1 million considered to be indefinitely invested. Should the Company elect in the future to repatriate the foreign earnings so invested, it may incur additional income tax expense on those foreign earnings, the amount of which is not practicable to compute.

PKLT, the Company's FPD manufacturing facility in Taiwan, has been accorded a tax holiday, which started in 2012 and expires in 2017. In addition, the Company had been accorded a tax holiday in China which expired in 2011. These tax holidays had no dollar or per share effect in the fiscal years ended November 3, 2013, October 28, 2012 and October 30, 2011. In Korea and at Photronics Semiconductor Mask Corporation (PSMC) in Taiwan, various investment tax credits have been earned to reduce the Company's effective income tax rate.

Income tax payments were \$10.7 million, \$14.3 million and \$10.4 million in fiscal 2013, 2012 and 2011, respectively. Cash received for refunds of income taxes paid in prior years amounted to \$0.3 million, \$0.1 million and \$0.2 million in fiscal years 2013, 2012 and 2011, respectively.

NOTE 14 - EARNINGS PER SHARE

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

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net income attributable to Photronics, Inc. shareholders	\$ 17,966	\$ 27,868	\$ 16,229
Effect of dilutive securities:			
Interest expense on convertible notes, net of related tax effects	-	6,168	-
Gain related to common stock warrants fair value adjustment	-	(94)	-
Earnings for diluted earnings per share	<u>\$ 17,966</u>	<u>\$ 33,942</u>	<u>\$ 16,229</u>
Weighted-average common shares computations:			
Weighted-average common shares used for basic earnings per share	60,644	60,055	57,030
Effect of dilutive securities:			
Share-based payment awards	813	767	1,145
Common stock warrants	142	219	283
Convertible notes	-	15,423	-
Dilutive potential common shares	<u>955</u>	<u>16,409</u>	<u>1,428</u>
Weighted-average common shares used for diluted earnings per share	<u>61,599</u>	<u>76,464</u>	<u>58,458</u>
Basic earnings per share	\$ 0.30	\$ 0.46	\$ 0.28
Diluted earnings per share	\$ 0.29	\$ 0.44	\$ 0.28

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

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Convertible notes	6,168	-	13,994
Share based payment awards	2,880	2,587	2,407
Common stock warrants	-	-	213
Total potentially dilutive shares excluded	<u>9,048</u>	<u>2,587</u>	<u>16,614</u>

In the first quarter of fiscal year 2014, the Company awarded approximately 0.7 million shared-based payment awards to its employees and directors.

NOTE 15 – SUBSIDIARY SHARE REPURCHASE

Since the second quarter of fiscal 2011, the board of directors of PSMC, a subsidiary of the Company based in Taiwan, has authorized several share repurchase programs for PSMC to purchase for retirement shares of its outstanding common stock. The last of these repurchase programs concluded in the first quarter of fiscal 2013. During the year ended November 3, 2013, PSMC purchased 9.2 million shares at a cost of \$4.2 million. PSMC purchased 35.9 million shares at a cost of \$15.6 million during the year ended October 28, 2012. These repurchase programs increased the Company's ownership in PSMC from 62.25% at October 30, 2011, to 72.09% at October 28, 2012, and to 75.11% at January 27, 2013.

In June 2013 the Company completed a tender offer, which had commenced in April 2013, for the outstanding shares of PSMC. A total of 50.3 million shares were purchased at the offering price of 16.30 NTD, equivalent to a total of \$27.4 million, which increased the Company's ownership interest in PSMC to 98.13%. In September 2013 the Company further increased its ownership interest in PSMC to 98.63% with the purchase of an additional 1.1 million shares of PSMC for \$0.7 million.

The table below presents the effect of the change in the Company's ownership interest in PSMC on the Company's equity for fiscal years 2013, 2012 and 2011 (60.5 million, 35.9 million and 21.6 million shares of common stock of PSMC purchased, respectively).

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net income attributable to Photronics, Inc. shareholders	\$ 17,966	\$ 27,868	\$ 16,229
Increase (decrease) in Photronics, Inc.'s additional paid-in capital	600	1,985	(201)
Decrease in Photronics, Inc.'s accumulated other comprehensive income	(237)	(78)	-
Change from net income attributable to Photronics, Inc. shareholders and transfers to or from noncontrolling interests	<u>\$ 18,329</u>	<u>\$ 29,775</u>	<u>\$ 16,028</u>

In November 2013 the Company announced that it had entered into an agreement to merge PSMC with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture which will operate under the name of Photronics DNP Mask Corporation (PDMC). See Note 22 for further discussion.

NOTE 16 - COMMITMENTS AND CONTINGENCIES

At November 3, 2013, the Company had outstanding purchase commitments of \$48 million, which included \$42 million related to capital expenditures, and had recorded liabilities for the purchase of equipment of \$19 million. See Note 9 for operating lease commitments.

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

NOTE 17 - GEOGRAPHIC AND SIGNIFICANT CUSTOMER INFORMATION

The Company operates as a single operating segment as a manufacturer of photomasks, which are high precision quartz plates containing microscopic images of electronic circuits for use in the fabrication of IC's and FPDs. Geographic net sales are based primarily on where the Company's manufacturing facility is located.

The Company's 2013, 2012 and 2011 net sales by geographic area and of ICs and FPDs, and long-lived assets by geographic area were as follows:

	Year Ended		
	November 3, 2013	October 28, 2012	October 30, 2011
Net sales			
Korea	\$ 134,300	\$ 161,154	\$ 171,327
United States	127,054	135,170	158,005
Taiwan	117,364	109,232	122,070
Europe	41,126	40,653	46,613
All other	2,336	4,230	14,005
	<u>\$ 422,180</u>	<u>\$ 450,439</u>	<u>\$ 512,020</u>
IC	\$ 320,579	\$ 350,105	\$ 391,158
FPD	101,601	100,334	120,862
	<u>\$ 422,180</u>	<u>\$ 450,439</u>	<u>\$ 512,020</u>
	As of		
	November 3, 2013	October 28, 2012	October 30, 2011
Long-lived assets			
United States	\$ 191,518	\$ 177,614	\$ 159,845
Korea	153,878	120,628	119,855
Taiwan	66,836	72,185	77,367
Europe	10,471	10,262	10,879
All other	37	119	734
	<u>\$ 422,740</u>	<u>\$ 380,808</u>	<u>\$ 368,680</u>

Samsung Electronics Co., Ltd. accounted for 18%, 22% and 20% of the Company's net sales in fiscal years 2013, 2012 and 2011, respectively.

NOTE 18 - CHANGES IN ACCUMULATED OTHER COMPREHENSIVE INCOME BY COMPONENT

The following tables set forth the changes in the Company's accumulated other comprehensive income by component (net of tax of \$0) for the year ended November 3, 2013:

	Year Ended November 3, 2013			
	Foreign Currency Translation Adjustments	Amortization of Cash Flow Hedge	Other	Total
Balance at October 29, 2012	\$ 17,241	\$ (690)	\$ (651)	\$ 15,900
Other comprehensive income before reclassifications	9,805	-	54	9,859
Amounts reclassified from other comprehensive income	-	128	-	128
Net current period other comprehensive income	9,805	128	54	9,987
Less: other comprehensive loss attributable to noncontrolling interests	751	-	2	753
Purchase of common stock of subsidiary	-	-	(237)	(237)
Balance at November 3, 2013	<u>\$ 27,797</u>	<u>\$ (562)</u>	<u>\$ (832)</u>	<u>\$ 26,403</u>

The amortization of the cash flow hedge is included in Cost of sales in the condensed consolidated statements of income for all periods presented.

NOTE 19 – CONCENTRATIONS OF CREDIT RISK

Financial instruments that potentially subject the Company to credit risk principally consist of trade accounts receivables and temporary cash investments. The Company sells its products primarily to manufacturers in the semiconductor and FPD industries in North America, Europe and Asia. The Company believes that the concentration of credit risk in its trade receivables is substantially mitigated by the Company's ongoing credit evaluation process and relatively short collection terms. The Company does not generally require collateral from customers. The Company establishes an allowance for doubtful accounts based upon factors surrounding the credit risk of specific customers, historical trends and other information.

The Company's cash and cash equivalents are deposited in several financial institutions, including institutions located within all of the countries in which it manufactures photomasks. Portions of deposits in some of these institutions may exceed the amount of insurance available for such deposits at these institutions. As these deposits are generally redeemable upon demand and are held by high quality, reputable institutions, the Company considers them to bear minimal credit risk. The Company further mitigates credit risks related to its cash and cash equivalents by spreading such risk among a number of institutions.

NOTE 20 - OTHER RELATED PARTY TRANSACTIONS

The chairman of the board and chief executive officer of the Company is also the vice chairman of the board and majority shareholder of a company that provides secure managed information technology services to Photonics. Another director of the Company is also a shareholder, chief executive officer and executive chairman of the board of this company. Since 2002, the Company has entered into various service contracts with this company to provide services to all of the Company's worldwide facilities. The Company incurred expenses for services provided by this company of \$1.7 million, \$1.8 million, and \$1.8 million in fiscal years 2013, 2012 and 2011, respectively, and had an outstanding balance of \$0.1 million and \$0.2 million due to this company as of November 3, 2013 and October 28, 2012, respectively. As of November 3, 2013, the Company had contracted with this company for various services through June 2015 at a cost of \$2.2 million.

The Company purchases photomask blanks from a company of which an officer of the Company is a significant shareholder. The Company purchased \$20.0 million, \$20.1 million and \$21.4 million of photomask blanks from this company in 2013, 2012 and 2011, respectively, for which the amount owed to this company was \$4.6 million at November 3, 2013, and \$4.2 million at October 28, 2012.

The Company believes that the terms of its transactions with related parties described above were negotiated at arm's length and were no less favorable to the Company than terms it could have obtained from unrelated third parties. See Note 4 for other related party transactions.

NOTE 21 - FAIR VALUE MEASUREMENTS

The accounting framework for determining fair value includes a hierarchy for ranking the quality and reliability of the information used to measure fair value, which enables the reader of the financial statements to assess the inputs used to develop those measurements. The fair value hierarchy consists of three tiers as follows: Level 1, defined as quoted market prices in active markets for identical securities; Level 2, defined as inputs other than Level 1 that are observable, either directly or indirectly; and Level 3, defined as unobservable inputs that are not corroborated by market data.

The Company did not have any assets or liabilities measured at fair value, on a recurring or a nonrecurring basis, at November 3, 2013 or October 28, 2012.

Fair Value of Other Financial Instruments

The fair values of the Company's cash and cash equivalents (Level 1 measurements), accounts receivable, accounts payable, and certain other current assets and current liabilities (Level 2 measurements) approximate their carrying value due to their short-term maturities. The fair value of the Company's variable rate term loan is a Level 2 measurement and approximates its carrying value due to the variable nature of the underlying interest rates. The fair value of the Company's convertible senior notes is a Level 2 measurement that is determined using recent bid prices. The fair value of the Company's financing loan with a customer was a Level 2 measurement that approximated its carrying value due to its short-term maturity.

The table below presents the fair and carrying values of the Company's convertible senior notes at November 3, 2013 and October 28, 2012.

	<u>November 3, 2013</u>		<u>October 28, 2012</u>	
	<u>Fair Value</u>	<u>Carrying Value</u>	<u>Fair Value</u>	<u>Carrying Value</u>
3.25% convertible senior notes	\$ 130,330	\$ 115,000	\$ 110,239	\$ 115,000
5.5% convertible senior notes	\$ 37,567	\$ 22,054	\$ 27,755	\$ 22,054

NOTE 22 – PENDING MERGER OF PSMC WITH DNP PHOTOMASK TECHNOLOGY TAIWAN CO., LTD.

In November 2013 the Company announced that it had entered into an agreement to merge PSMC with DNP Photomask Technology Taiwan Co., Ltd., a wholly owned subsidiary of Dai Nippon Printing Co., Ltd. (DNP), to form a joint venture to operate under the name of Photronics DNP Mask Corporation (PDMC). The pending merger, which is a noncash transaction, would result in the Company owning 50.01% and DNP owning 49.99% of PDMC, whose financial results would be included in the Company’s consolidated financial statements. The merger is subject to regulatory approvals and customary closing conditions, and is expected to be completed during the first half of fiscal 2014.

NOTE 23 - QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

The following table sets forth certain unaudited quarterly financial data:

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Year</u>
Fiscal 2013:				(a)	(a)
Net sales	\$ 99,839	\$ 106,680	\$ 109,652	\$ 106,009	\$ 422,180
Gross margin	21,098	24,789	27,078	26,675	99,640
Net income	2,859	5,442	6,364	4,911	19,576
Net income attributable to Photronics, Inc. shareholders	2,323	4,863	5,940	4,840	17,966
Earnings per share:					
Basic	\$ 0.04	\$ 0.08	\$ 0.10	\$ 0.08	\$ 0.30
Diluted	\$ 0.04	\$ 0.08	\$ 0.10	\$ 0.08	\$ 0.29
Fiscal 2012:	(b) (c)	(d)		(e)	(b) (c) (d) (e)
Net sales	\$ 112,154	\$ 117,451	\$ 116,616	\$ 104,218	\$ 450,439
Gross margin	25,458	29,861	32,304	24,297	111,920
Net income	4,841	9,530	11,267	4,217	29,855
Net income attributable to Photronics, Inc. shareholders	4,268	8,818	10,950	3,832	27,868
Earnings per share:					
Basic	\$ 0.07	\$ 0.15	\$ 0.18	\$ 0.06	\$ 0.46
Diluted	\$ 0.07	\$ 0.14	\$ 0.16	\$ 0.06	\$ 0.44

- (a) Includes transaction expenses of \$0.8 million, net of tax, in connection with the pending joint venture with DNP Photomask Technology Co., Ltd.
- (b) Includes consolidation and restructuring charges of \$1.1 million, net of tax, in connection with the discontinuance of manufacturing operations at the Company’s Singapore facility.
- (c) Includes non-cash gain of \$0.1 million, net of tax, in connection with subsequent measurement at fair value of warrants issued to purchase the Company’s stock.
- (d) Includes consolidation and restructuring charges of \$0.1 million, net of tax, in connection with the discontinuance of manufacturing operations at the Company’s Singapore facility.
- (e) Includes consolidation and restructuring charges of \$0.2 million, net of tax, in connection with the discontinuance of manufacturing operations at the Company’s Singapore facility.

NOTE 24 - RECENT ACCOUNTING PRONOUNCEMENTS

In February 2013 the Financial Accounting Standards Board issued Accounting Standards Update (ASU) No. 2013-02, “Reporting Amounts Reclassified Out of Other Comprehensive Income”. The amendments included in ASU No. 2013-02 require an entity to provide information about the amounts reclassified out of accumulated other comprehensive income by component, and present changes in accumulated balances for each component of comprehensive income on an interim basis. The Company adopted the provisions of ASU No. 2013-02 in the year ended November 3, 2013, and has presented its required disclosures in Note 18.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

The Company has established and currently maintains disclosure controls and procedures, as such term is defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), designed to ensure that information required to be disclosed in its reports filed under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to management, including the Company's chief executive officer and chief financial officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

The Company's management, under the supervision and with the participation of the Company's chief executive officer and chief financial officer, evaluated the effectiveness of the design and operation of the Company's disclosure controls and procedures as of the end of the period covered by this report. Based upon that evaluation the Company's chief executive officer and chief financial officer concluded that the Company's disclosure controls and procedures were effective at a reasonable assurance level as of the end of the period covered by this report.

Changes in Internal Control over Financial Reporting

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

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Management assessed the effectiveness of the Company's internal control over financial reporting as of November 3, 2013, based on the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in "Internal Control - Integrated Framework" (1992). Management, under the supervision and with the participation of the Company's chief executive officer and chief financial officer, assessed that the Company's internal control over financial reporting was effective as of November 3, 2013.

The Company's independent registered public accounting firm, Deloitte & Touche LLP, has audited the effectiveness of the Company's internal control over financial reporting as of November 3, 2013, as stated in their attestation report on page 34 of this Form 10-K.

January 3, 2014

ITEM 9B. OTHER INFORMATION

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information as to Directors required by Item 401, 405 and 407(c)(3)(d)(4) and (d)(5) of Regulation S-K is set forth in the Company's 2014 definitive Proxy Statement which will be filed with the Securities and Exchange Commission pursuant to Regulation 14A of the Exchange Act within 120 days after the end of the fiscal year covered by this Form 10-K under the caption "PROPOSAL 1 - ELECTION OF DIRECTORS," "SECTION 16(A) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE" and in the third paragraph under the caption "MEETINGS AND COMMITTEES OF THE BOARD," and is incorporated in this report by reference. The information as to Executive Officers is included in the Company's 2014 definitive Proxy Statement under the caption "EXECUTIVE OFFICERS" and is incorporated in this report by reference.

The Company has adopted a code of ethics that applies to its principal executive officer, principal financial officer and principal accounting officer or controller. A copy of the code of ethics may be obtained, free of charge, by writing to the vice president general counsel of Photronics, Inc. at 15 Secor Road, Brookfield, Connecticut 06804.

ITEM 11. EXECUTIVE COMPENSATION

The information required by Item 402 of Regulation S-K and paragraph (e)(4) and (e)(5) of Item 407 is set forth in the Company's 2014 definitive Proxy Statement under the captions "EXECUTIVE COMPENSATION," "CERTAIN AGREEMENTS", "DIRECTORS' COMPENSATION", "COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION" and "COMPENSATION COMMITTEE REPORT," respectively, and is incorporated in this report by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by Item 201(d) of Regulation S-K is set forth in the Company's 2014 definitive Proxy Statement under the caption "EQUITY COMPENSATION PLAN INFORMATION", and is incorporated in this report by reference. The information required by Item 403 of Regulation S-K is set forth in the Company's 2014 definitive Proxy Statement under the caption "OWNERSHIP OF COMMON STOCK BY DIRECTORS, OFFICERS AND CERTAIN BENEFICIAL OWNERS", and is incorporated in this report by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by Items 404 and Item 407(a) of Regulation S-K is set forth in the Company's 2014 definitive Proxy Statement under the captions "MEETINGS AND COMMITTEES OF THE BOARD" and "CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS", respectively, and is incorporated in this report by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information required by Item 9(e) of Rule 14a-101 of the Exchange Act is set forth in the Company's 2014 definitive Proxy Statement under the captions "FEES PAID TO THE INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM" and "AUDIT COMMITTEE REPORT," and is incorporated in this report by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

The following documents are filed as part of this report:

	Page No.
1. Financial Statements: See "INDEX TO CONSOLIDATED FINANCIAL STATEMENTS" in Part II, Item 8 of this Form 10-K.	33
2. Financial Statement Schedules:	
Report of Independent Registered Public Accounting Firm	65
Schedule II - Valuation and Qualifying Accounts for the years ended November 3, 2013, October 28, 2012 and October 30, 2011	66
All other schedules are omitted because they are not applicable.	
3. Exhibits	67

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders

Photronics, Inc.

Brookfield, Connecticut

We have audited the consolidated financial statements of Photronics, Inc. and subsidiaries (the "Company") as of November 3, 2013 and October 28, 2012, and for each of the three fiscal years ended November 3, 2013, October 28, 2012 and October 30, 2011, and the Company's internal control over financial reporting as of November 3, 2013, and have issued our report thereon dated January 3, 2014; such report is included elsewhere in this Form 10-K. Our audits also included the consolidated financial statement schedule of the Company listed in Item 15. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ Deloitte & Touche LLP

Hartford, Connecticut

January 3, 2014

Schedule II

**Valuation and Qualifying Accounts
for the Years Ended November 3, 2013, October 28, 2012
and October 30, 2011
(in thousands)**

	<u>Balance at Beginning of Year</u>	<u>Charged to Costs and Expenses</u>	<u>Deductions</u>		<u>Balance at End of Year</u>
Allowance for Doubtful Accounts					
Year ended November 3, 2013	\$ 3,902	\$ (398)	\$ 37 (a)		\$ 3,541
Year ended October 28, 2012	\$ 4,055	\$ (203)	\$ 50 (a)		\$ 3,902
Year ended October 30, 2011	\$ 4,235	\$ 298	\$ (478) (a)		\$ 4,055
Deferred Tax Asset Valuation Allowance					
Year ended November 3, 2013	\$ 55,536	\$ 1,125	\$ -		\$ 56,661
Year ended October 28, 2012	\$ 53,063	\$ 3,331	\$ (858) (b)		\$ 55,536
Year ended October 30, 2011	\$ 61,303	\$ -	\$ (8,240) (b)		\$ 53,063

(a) Uncollectible accounts written off and impact of foreign currency translation.

(b) Primarily due to utilization of net operating losses and expiration of investment tax credit.

EXHIBITS INDEX

<u>Exhibit Number</u>	<u>Description</u>
3.1	Certificate of Incorporation as amended July 9, 1986, April 9, 1990, March 16, 1995, November 13, 1997, April 15, 2002 and June 20, 2005.*
3.2	By-laws of the Company, (incorporated by reference to Exhibit 3.2 to the Company's Registration Statement on Form S-1, File Number 33-11694, which was declared effective by the Commission on March 10, 1987).
4.1	Form of Indenture between the Company and the Bank of New York, as Trustee (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-3 File Number 333-160235 filed on June 25, 2009).
4.2	Indenture dated September 16, 2009 between the Company and the Bank of New York, as Trustee (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8K filed September 17, 2009).
4.3	Supplement to Indenture dated September 16, 2009 between the Company and the Bank of New York, as Trustee relating to the issuance of the Company's 5.5% Convertible Notes due 2014 (incorporated by reference to Exhibit 4.2 to the Company's Current Report on Form 8K filed September 17, 2009).
4.4	Indenture dated March 28, 2011 between the Company and Wells Fargo (as successor trustee to Nova Scotia) (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on March 29, 2011).
10.1	Master Service Agreement dated January 11, 2002 between the Company and RagingWire Telecommunications, Inc. (incorporated by reference to Exhibit 10.1 to the Company's Annual Report on Form 10-K for the fiscal year ended November 1, 2009).
10.2	Underwriting Agreement between the Company and Morgan Stanley & Co. Incorporated dated September 10, 2009 relating to the issuance of the Company's 5.5% Convertible Notes due 2014 (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8K filed September 11, 2009).
10.3	Underwriting Agreement between the Company and Morgan Stanley & Co. Incorporated dated September 10, 2009 relating to the issuance of 9,638,554 shares of common stock (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8K filed September 11, 2009 (Commission File Number 0-15451)).
10.4	The Company's 1992 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.24 to the Company's Registration Statement on Form S-8, File Number 33-47446 which was filed April 24, 1994). +
10.5	Amendment to the Employee Stock Purchase Plan as of March 24, 2004 (incorporated by reference to Exhibit 10.7 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011). +
10.6	Amendment to the Employee Stock Purchase Plan as of April 8, 2010 (incorporated by reference to Exhibit 10.42 to the Company's Quarterly Report on Form 10-Q filed on June 10, 2010). +
10.7	Amendment to the Employee Stock Purchase Plan as of March 28, 2012 (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed September 5, 2012). +
10.8	The Company's 2007 Long-Term Equity Incentive Plan (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed September 5, 2012). +
10.9	Amendment to the 2007 Long Term Equity Incentive Plan as of April 8, 2010 (incorporated by reference to Exhibit 10.43 to the Company's Quarterly Report on Form 10-Q filed on June 10, 2010). +
10.10	Consulting Agreement between the Company and Constantine S. Macricostas, dated July 11, 2005. (incorporated by reference to Exhibit 10.11 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011 filed on January 13, 2012) +

10.11	Amendment No. 1 to the Consulting Agreement between Constantine S. Macricostas and the Company dated November 10, 2008.* +
10.12	Executive Employment Agreement between the Company and Sean T. Smith dated February 20, 2003 (incorporated by reference to Exhibit 10.12 to the Company's Annual Report on Form 10-K for the fiscal year ended November 1, 2009). +
10.13	Limited Liability Company Operating Agreement of MP Mask Technology Center, LLC between Micron Technology, Inc. ("Micron") and Photronics, Inc. ("Photronics") dated May 5, 2006. (incorporated by reference to Exhibit 10.14 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011) #
10.14	Contribution and Units Purchase Agreement between Micron, Photronics and MP Mask Technology Center, LLC ("MP Mask") dated May 5, 2006. (incorporated by reference to Exhibit 10.15 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011) #
10.15	Technology License Agreement among Micron, Photronics and MP Mask dated May 5, 2006. (incorporated by reference to Exhibit 10.16 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011) #
10.16	Photronics to Micron Supply Agreement between Micron and Photronics dated May 5, 2006. (incorporated by reference to Exhibit 10.17 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011) #
10.17	Company to Photronics Supply Agreement between MP Mask and Photronics dated May 5, 2006. (incorporated by reference to Exhibit 10.18 to the Company's Annual Report on Form 10-K for the fiscal year ended October 30, 2011) #
10.18	Special Warranty Deed dated as of February 29, 2012 (incorporated by reference to Exhibit 99.2 to the Company's Current Report on Form 8-K filed on March 6, 2012)
10.19	Executive Employment Agreement between the Company and Soo Hong Jeong dated May 31, 2011 (incorporated by reference to Exhibit 10.40 to the Company's Quarterly Report on Form 10-Q filed on June 8, 2011). +
10.20	Executive Employment Agreement between the Company and Christopher J. Proglar, Vice President, Chief Technology Officer dated September 10, 2007 (incorporated by reference to Exhibit 10.22 to the Company's Annual Report on Form 10-K filed on January 9, 2013). +
10.21	Executive Employment Agreement between the Company and Peter Kirilin dated May 21, 2010 (incorporated by reference to Exhibit 10.42 of the Company's Quarterly Report on Form 10-Q filed on June 10, 2010). +
10.22	Executive Employment Agreement between the Company and Richelle Burr dated May 21, 2010 (incorporated by reference to Exhibit 10.43 of the Company's Quarterly Report on Form 10-Q filed on June 10, 2010). +
10.23	Form of Amendment to Executive Employment Agreement dated March 16, 2012 (incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K filed on March 16, 2012). +
10.24	Third Amended and Restated Credit Agreement dated as of December 5, 2013.*
21	List of Subsidiaries of the Company.*
23	Consent of Deloitte & Touche LLP.*
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.*
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*

101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

+ Represents a management contract or compensatory plan or arrangement.

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

* Represents an exhibit that is filed with this Annual Report on Form 10-K.

The Company will provide a copy of any exhibit upon receipt of a written request for the particular exhibit or exhibits desired. All requests should be addressed to the Company's general counsel at the address of the Company's principal executive offices.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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 January 3, 2014
Sean T. Smith
Senior Vice President
Chief Financial Officer
(Principal Accounting Officer/
Principal Financial Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By /s/ CONSTANTINE S. MACRICOSTAS January 3, 2014
Constantine S. Macricostas
Chairman of the Board
Chief Executive Officer
(Principal Executive Officer)

By /s/ SEAN T. SMITH January 3, 2014
Sean T. Smith
Senior Vice President
Chief Financial Officer
(Principal Accounting Officer/
Principal Financial Officer)

By /s/ WALTER M. FIEDEROWICZ January 3, 2014
Walter M. Fiederowicz
Director

By /s/ JOSEPH A. FIORITA, JR. January 3, 2014
Joseph A. Fiorita, Jr.
Director

By /s/ LIANG-CHOO HSIA January 3, 2014
Liang-Choo Hsia
Director

By /s/ GEORGE MACRICOSTAS January 3, 2014
George Macricostas
Director

By /s/ MITCHELL G. TYSON January 3, 2014
Mitchell G. Tyson
Director

CERTIFICATE OF CORRECTION OF
CERTIFICATE OF AMENDMENT
OF
PHOTRONICS, INC.

To the Secretary of State
of the State of Connecticut

It is hereby certified that:

1. The name of the corporation (hereinafter called the "Corporation") is Photronics, Inc.
2. The Certificate of Amendment of the Corporation, which was filed by the Secretary of State of the State of Connecticut on April 15, 2002, is hereby corrected.
3. The incorrect statement in said document and the reason it is incorrect are:

Due to a scrivener's error, a portion of the first paragraph of Article Third was inadvertently omitted from the Certificate of Amendment filed with the Secretary of the State of the State of Connecticut on April 15, 2002.

4. The portion of the document in corrected form is as follows:

"3. The aggregate number of shares which the Corporation shall have the authority to issue is 152,000,000, of which 2,000,000 shares shall be shares of Preferred Stock having a par value of \$0.01 per share (hereinafter called "Preferred Stock") and 150,000,000 shares shall be shares of Common Stock having a par value of \$0.01 per share (hereinafter called "Common Stock")."

Signed on June 20, 2005

/s/ Edwin L. Lewis
Vice President, Secretary and General Counsel

CERTIFICATE OF AMENDMENT
STOCK CORPORATION

Office of the Secretary of the State
30 Trinity Street / P.O. Box 150470 / Hartford, CT 06115-0470 / Rev. 12/1999

Space For Office Use Only

1. NAME OF CORPORATION:

PHOTRONICS, INC.

2. THE CERTIFICATE OF INCORPORATION IS (check A., B. or C.):

A. AMENDED.

B. AMENDED AND RESTATED.

C. RESTATED.

3. TEXT OF EACH AMENDMENT / RESTATEMENT:

RESOLVED, that the Certificate of Incorporation be amended by striking the first paragraph of Article Third in its entirety and substituting therefor the following:

3. The aggregate number of shares which the Corporation shall have the authority to issue is 152,000,000 shares, of which 2,000,000 shares shall be shares of Preferred Stock having a par value of \$0.01 per share(hereinafter called "Common Stock").

The amendment shall be effective upon filing of this Certificate of Amendment with the Secretary of State.

(Please reference an 8 1/2 X 11 attachment if additional space is needed)

Space For Office Use Only

4. VOTE INFORMATION (check A., B. or C.):

XXX A. The resolution was approved by shareholders as follows:

(set forth all voting information required by Conn. Gen. Stat. Section 33-800 as amended in the space provided below)

There was only one class of shares outstanding entitled to vote on the amendment. That class was Common Stock, par value \$0.1 per share, of which 30,373,076 were outstanding on the record date for the vote. At the meeting to vote on the amendment, 25,725,980 shares of Common Stock were indisputably present. The vote on the amendment was 23,466,159 shares in favor of the amendment and such vote was sufficient for approval of the amendment.

The amendment was adopted by the shareholders on March 20, 2002 and by the Board of Directors on March 20, 2002.

___ B. The amendment was adopted by the board of directors without shareholder action. No shareholder vote was required for adoption.

___ C. The amendment was adopted by the incorporators without shareholder action. No shareholder vote was required for adoption.

5. EXECUTION:

Dated this 22nd day of March , 2002.

James A. Eder
Print or type name of signatory

Secretary
Capacity of signatory

/s/James A. Eder
Signature

CERTIFICATE OF AMENDMENT
STOCK CORPORATION

Office of the Secretary of the State

30 Trinity Street/P.O. Box 150470/Hartford, CT 06115-0470/new/1-97

Space For Office Use Only

1. NAME OF CORPORATION:

PHOTRONICS, INC.

2. THE CERTIFICATE OF INCORPORATION IS (check A., B., or C.):

- A. AMENDED.
 B. AMENDED AND RESTATED.
 C. RESTATED.

3. TEXT OF EACH AMENDMENT / RESTATEMENT:

RESOLVED, that the Certificate of Incorporation be amended by striking the first paragraph of Article Third in its entirety and substituting therefor the following:

- 3).The aggregate number of shares which the Corporation shall have the authority to issue is 77,000,000 shares, of which 2,000,000 shares shall be shares of Preferred Stock having a par value of \$0.01 per share(hereinafter called "Preferred Stock") and 75,000,000 shares shall be shares of Common Stock having a par value of \$0.01 per share(hereinafter call "Common Stock").

The amendment shall be effective upon filing of this Certificate of Amendment with the Secretary of State.

(Please reference an 8 1/2 X 11 attachment if additional space is needed)

Space For Office Use Only

4. VOTE INFORMATION (check A., B., or C.)

XXX A. The resolution was approved by shareholders as follows:

(set forth all voting information required by Conn. Gen. Stat. section 33-800 as amended in the space provided below)

There was only one class of shares outstanding entitled to vote on the amendment. That class was Common Stock, par value \$0.01 per share, of which 12,062,368 shares were outstanding on the record date for the vote. At the meeting to vote on the amendment, 10,156,367 shares of Common Stock were indisputably present at the meeting.

The vote on the amendment was 8,801,215 shares in favor of the amendment and such vote was sufficient for approval of the amendment.

The amendment was adopted by the shareholders on November 13, 1997 and by the Board of Directors on September 12, 1997.

B. The amendment was adopted by the board of directors without shareholder action. No shareholder vote was required for adoption.

C. The amendment was adopted by the incorporators without shareholder action. No shareholder vote was required for adoption.

5. EXECUTION:

Dated this 13th day of November, 1997

JEFFREY P. MOONAN
Print or type name of signatory

SECRETARY
Capacity of signatory

/s/ Jeffrey P. Moonan
Signature

STATE OF CONNECTICUT
SECRETARY OF THE STATE
30 TRINITY STREET
HARTFORD, CT 06106

1. Name of Corporation (Please enter name within lines)

PHOTRONICS, INC.

2. The Certificate of Incorporation is: (Check one)

- A. Amended only, pursuant to Conn. Gen. Stat. Section 33-360.
- B. Amended only, to cancel authorized shares (state number of shares to be cancelled, the class, the series, if any, and the par value, P.A. 90-107.)
- C. Restated only, pursuant to Conn. Gen. Stat. Section 33-362(a)
- D. Amended and restated, pursuant to Conn. Gen. Stat. Section 33-362(c).
- E. Restated and superseded pursuant to Conn. Gen. Stat. Section 33-362(d).

Set forth here the resolution of amendment and/or restatement. Use an 8 1/2x11 attached sheet if more space is needed. Conn. Gen. Stat. Section 1-9.

RESOLVED, that the Certificate of Incorporation be amended by striking the first paragraph of Article Third in its entirety and substituting therefor the following:

3) The aggregate number of shares which the Corporation shall have the authority to issue is 22,000,000 shares, of which 2,000,000 shares shall be shares of Preferred Stock having a par value of \$0.01 per share (hereinafter called "Preferred Stock") and 20,000,000 shares shall be shares of Common Stock having a par value of \$0.01 per share (hereinafter called "Common Stock").

(If 2A or 2B is checked, go to 5 & 6 to complete this certificate. If 2C or 2D is checked, complete 3A or 3B. If 2E is checked, complete 4.)

3. (Check one)

- A. This Certificate purports merely to restate but not to change the provisions of the original Certificate of Incorporation as supplemented and amended to date, and there is no discrepancy between the provisions of the original Certificate of Incorporation as supplemented and amended to date, and the provisions of this Restated Certificate of Incorporation. (If 3A is checked, go to 5 & 6 to complete this certificate.)
-

B. This Restated Certificate of Incorporation shall give effect to the amendment(s) and purports to restate all those provisions now in effect not being amended by such new amendment(s). (If 3B is checked, check 4, if true, and go to 5 & 6 to complete this Certificate.)

4. (Check, if true)

This restated Certificate of Incorporation was adopted by the greatest vote which would have been required to amend any provision of the Certificate of Incorporation as in effect before such vote and supersedes such Certificate of Incorporation.

5. The manner of adopting the resolution was as follow

A. By the board of directors and shareholders pursuant to Conn. Gen. Stat. Section 33 – 360.
Vote of Shareholders: (Check (i) or (ii), and check (iii) if applicable.)

(i) No shares are required to be voted as a class; the shareholder's vote was as follows:

Vote Required for Adoption 3,288,639 Vote Favoring Adoption 5,151,790

(ii) There are shares of more than one class entitled to vote as a class. The designation of each class required for adoption of the resolution and the vote of each class in favor of adoption were as follows:
(Use and 8 1/2 x 11 attached sheet if more space is needed. Conn. Gen. Stat. (S) 1 - 9.)

(iii) Check here if the corporation has 100 or more recordholders, as defined in Conn. Gen. Stat. (S) 33 - 311a(a)

B. By the board of directors acting alone, pursuant to Conn. Gen. Stat.(S) 33 - 360(b)(2) or 33-362(a).

The number of affirmative votes required to adopt such resolution is: _____

The number of directors' voted in favor of resolution was:

We hereby declare, under the penalties of false statement, that the statements made in the foregoing certificate are true:

(Print or Type)

Signature

(Print or Type)

Signature

Name of Pres.

Michael J. Yomazzo

/s/ Michael J. Yomazzo

Name of Sec.

Jeffrey P. Moonan

/s/ Jeffrey P. Moonan

- C. The corporation does not have any shareholders. The resolution was adopted by vote of at least two-thirds of the incorporators before the organization meeting of the corporation and approved in writing by all subscribers for shares of the corporation. If there are no subscribers, state NONE below.

We (at least two-thirds of the incorporators) hereby declare, under the penalties of false statement, that the statements made in the foregoing certificate are true.

Signed Incorporator
Signed Subscriber

Signed Incorporator
Signed Subscriber

Signed Incorporator
Signed Subscriber

(Use an 8 1/2 x 11 attached sheet if more space is needed. Conn. Gen. Stat (S) 1 - 9)

6. Dated at Brookfield, CT this 16th day of March, 1995

Rec, CC. GS: (Type or Print)

CT Corporation System
One Commercial Plaza
Hartford, CT 06103-3597

Please provide filer's name and complete address for mailing receipt

CERTIFICATE AMENDING
CERTIFICATE OF INCORPORATION
OF
PHOTRONIC LABS, INC.

BY ACTION OF
BOARD OF DIRECTORS AND SHAREHOLDERS

I) The Certificate of Incorporation is amended only by the following resolutions adopted by the Corporations' shareholders and directors:

RESOLVED, that the Certificate of Incorporation of the Corporation be amended by striking Article FIRST in its entirety and substituting therefor the following:

1)The name of the corporation is Photonics, Inc.;

Be it further

RESOLVED, that the Certificate of Incorporation be amended by striking Article Third in its entirety and substituting therefor the following:

3)The aggregate number of shares which the Corporation shall have the authority to issue is 12,000,000 shares, of which 2,000,000 shares shall be shares of Preferred Stock having a par value of \$.01 per share (hereinafter called "Preferred Stock") and 10,000,000 shares shall be shares of Common Stock having a par value of \$.01 per share (hereinafter called "Common Stock").

The designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of the Preferred Stock shall be as follows:

a) The Board of Directors is expressly authorized at any time, and from time to time, to provide for the issuance of shares of Preferred Stock in one or more series, with such voting powers, full or limited, or without voting powers and with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions providing for the issue thereof adopted by the Board of Directors, and as are not stated and expressed in this Certificate of Incorporation, or any amendment thereto, including (but without limiting the generality of the foregoing) the following:

- (i) The designation of such series;
- (ii) The dividend rate of such series, the conditions and dates upon which such dividends shall be payable, the preference or relation which such dividends shall bear to the dividends payable on any other class or classes of any other series of capital stock, and whether such dividends shall be cumulative or non-cumulative;
- (iii) Whether the shares of such series shall be subject to redemption by the Corporation, and, if made subject to such redemption, the times, prices and other terms and conditions of such redemption;
- (iv) The terms and amount of any sinking fund provided for the purchase or redemption of the shares of such series;
- (v) Whether or not the shares of such series shall be convertible into or exchangeable for shares or any other class or classes of capital stock of the Corporation, and, if provision be made for conversion or exchange, the times, prices, rates, adjustments, and other terms and conditions of such conversion or exchange;
- (vi) The extent, if any, to which the holders of the shares of such series shall be entitled to vote as a class or otherwise with respect to the election of the directors or otherwise;
- (vii) The restrictions, if any, on the issue or release of any additional Preferred Stock;
- (viii) The rights of the holders of the shares of such series upon the dissolution of, or upon the distribution of assets of, the Corporation.

b) Except as otherwise required by law and except for such voting powers with respect to the election of directors or other matters as may be stated in the resolutions of the Board of Directors creating any series of Preferred Stock, the holders of any such series shall have no voting power whatsoever.

Subject to the provisions of any applicable law, or except as otherwise provided by the resolution or resolutions providing for the issue of any series of Preferred Stock, the holders of outstanding shares of Common Stock shall exclusively possess voting power for the election of directors and for all other purposes, each holder of record of shares of Common Stock being entitled to one vote for each share of Common Stock standing in his name on the books of the Corporation.

Except as otherwise provided by the resolution or resolutions providing for the issue of any series of Preferred Stock, after payment shall have been made to the holders of Preferred Stock of the full amount of dividends to which they shall be entitled pursuant to the resolution or resolutions providing for the issue of any series of Preferred Stock, the holders of Common Stock shall be entitled, to the exclusion of the holders of Preferred Stock of any and all series, to receive such dividends as from time to time may be declared by the Board of Directors.

Except as otherwise provided by the resolution or resolutions providing for the issue of any series of Preferred Stock, in the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, after payment shall have been made to the holders of Preferred Stock of the full amount to which they shall be entitled pursuant to the resolution or resolutions providing for the issue of any series of Preferred Stock, the holders of Common Stock shall be entitled, to the exclusion of the holders of Preferred Stock of any and all series, to share, ratably according to the number of shares of Common Stock held by them, in all remaining assets of the Corporation available for distribution to its shareholders.

Be it further

RESOLVED, that the Certificate of Incorporation of this Corporation be amended by adding Article EIGHTH in the following form:

8) The shareholders of the Corporation shall not have any pre-emptive or preferential rights to subscribe for, purchase or receive any shares of stock of the Corporation (or any obligation convertible into shares of stock, including without limitation, warrants, subscription rights or options to acquire shares) which the Corporation may issue or sell.

Be it further

RESOLVED, that the Certificate of Incorporation of this Corporation be amended by adding Article NINTH in the following form:

9) The personal liability of any Director to the Corporation or its shareholders for monetary damages for breach of duty as a Director is hereby limited to the amount of the compensation received by the Director for serving the Corporation during the year of the violation if such breach did not (a) involve a knowing and culpable violation of law by the Director, (b) enable the Director or an associate, as defined in subdivision (3) of Section 33-374d of the Connecticut General Statutes, to receive an improper personal economic gain, (c) show a lack of good faith and a conscious disregard for the duty of the Director to the Corporation under circumstances in which the Director was aware that his conduct or omission created an unjustifiable risk of serious injury to the Corporation, (d) constitute a sustained and unexcused pattern of inattention that amounted to an abdication of the Director's duty to the Corporation, or (e) create liability under Section 33-321 of the Connecticut General Statutes. This Article shall not limit or preclude the liability of any Director for any act or omission occurring prior to the effective date of this Article. Any repeal or modification of this Article by the shareholders of the Corporation shall not adversely affect any right or protection of a Director of the Corporation existing at the time of such repeal or modification.

II) The above resolutions were adopted by the Shareholders and the Board of Directors.

III) Number of Recordholders:

At the time of the shareholders vote approving these amendments to the Certificate of Incorporation, the Corporation had at least one hundred recordholders.

IV) Vote of Shareholders:

Number of Shares Entitled to Vote	Total Voting Power of Shares Entitled to Vote	Vote Required For Adoption	Favoring Adoption
3,191,100	3,191,100	1,594,801	2,507,209

Dated at Brookfield Center, Connecticut the 16th day of March, 1990.

We hereby declare under the penalties of false statement that the statements made in the foregoing certificate are true.

/s/ Constantine Macricostas

Constantine Macricostas
President

/s/ Jeffrey P. Moonan

Jeffrey P. Moonan
Secretary

CERTIFICATE AMENDING
CERTIFICATE OF INCORPORATION
OF PHOTRONIC LABS INCORPORATED
BY ACTION OF
BOARD OF DIRECTORS AND SHAREHOLDERS

1. The Certificate of Incorporation is amended only by the following resolutions adopted by the Corporations' shareholders and directors:

RESOLVED, that the Certificate of Incorporation of the Corporation be amended by striking Article FIRST in its entirety and replacing therefor:

1. The name of the Corporation is Photronic Labs, Inc.;

Be it further

RESOLVED, that the Certificate of Incorporation of this Corporation be amended by striking Article Third in its entirety and substituting therefor:

2. The total number of shares of stock which the Corporation shall have authority to issue is 5,000,000 shares with a par value of \$.01 each shall be Common Stock.

3. The above resolutions were adopted by the Shareholders and the Board of Directors.

4. Vote of Shareholders:

Number of Shares Entitled to Vote	Total Voting Power of Shares Entitled to Vote	Vote Required For Adoption	Vote Favoring Adoption
4200	4200	2101	4200

Dated at Brookfield Center, Connecticut the 20th day of June, 1986.

We hereby declare under the penalties of false statement that the statements made in the foregoing certificate are true.

/s/ Constantine Macricostas

Constantine Macricostas
President

/s/ Michael J. Yomazzo

Michael J. Yomazzo
Secretary

CERTIFICATE OF INCORPORATION

Stock Corporation

61-5 Rev. 9-65

STATE OF CONNECTICUT

SECRETARY OF THE STATE

We, the incorporators, certify that we hereby associate ourselves as a body politic and corporate under the Stock Corporation Act of the State of Connecticut.

1. The name of the corporation is Photronic Labs Incorporated

2. The nature of the business to be transacted, or the purpose to be promoted or carried out by the corporation, are as follows:

- a) To engage and participate in the business of precision scientific photography and related processes.
 - b) To purchase or otherwise acquire, own, mortgage, lease, sell, convey or otherwise dispose of or utilize or deal in and with real property, goods, wares, merchandise and personal property of every kind and description and wherever located.
 - c) To carry on any other lawful business whatever in connection with the foregoing, or calculated directly or indirectly, to promote the interests of this corporation, or to enhance the value of its properties; to have, enjoy, and exercise all rights, powers and privileges which are now or may hereafter be conferred upon business corporations organized under the general corporation laws of Connecticut; to do any and all things necessary or proper for the accomplishment of any of the purposes or the attainment of any objects hereinbefore set forth, and in general to do every other act or thing pertaining to the foregoing purposes or powers to the same extent that a natural person might lawfully do in any part of the world.
 - d) The foregoing clauses shall be construed as both objects and powers and the enumeration of specific objects or powers shall not be deemed to limit or restrict in any manner the objects and powers of this corporation. All such objects and powers shall be deemed to be furtherance of and in addition to the general powers conferred by the laws of the State of Connecticut upon business corporations organized under the general corporation laws of the State.
-

3. The designation of each class of shares, the authorized number of shares of each such class, and the par value (if any) of each share thereof, are as follows:

	Common Stock
<input checked="" type="checkbox"/>	5,000 Shares
<input checked="" type="checkbox"/>	\$10.00 par value

4. The terms, limitations and relative rights and preferences of each class of shares and series thereof (if any), or an express grant of authority to the board of directors pursuant to Section 33-341, 1959 Supp. Conn. G.S., are as follows:

All Common Stock with equal rights and preferences and no series or special authority.

5. The minimum amount of stated capital with which the corporation shall commence business is \$9,000.00 NINE THOUSAND AND NO/100 dollars. (Not less than one thousand dollars)

6. (x) Other provisions

The address of the corporation is 20 Ta'Agan Point Road, Danbury, Connecticut.

7. Said corporation is to commence operations immediately and its duration is unlimited.

Dated at Danbury this 24th day of February, 1969

We hereby declare, under the penalties of perjury, that the statements made in the foregoing certificate are true.

NAME OF INCORPORATOR (Print or Type)

1. Armindo J. Rebeiro

SIGNED (Incorporator)

1. /s/ Armindo J. Rebeiro

NAME OF INCORPORATOR (Print or Type)

4. Larry L. Sharp

SIGNED (Incorporator)

4. /s/ Larry L. Sharp

NAME OF INCORPORATOR(Print or Type)

2. Gerard P. Keehan

SIGNED (Incorporator)

2. /s/ Gerard P. Keehan

NAME OF INCORPORATOR(Print or Type)

5. Edward G. Keehan

SIGNED (Incorporator)

5. /s/ Edward G. Keehan

NAME OF INCORPORATOR (Print or Type)

3. Edward O. Law

SIGNED(Incorporator)

3. /s/Edward O. Law

NAME OF INCORPORATOR(Print or Type)

6. Constantine S. Macricostas

SIGNED(Incorporator)

6. /s/Constantine S. Macricostas

APPOINTMENT OF STATUTORY AGENT FOR SERVICE

DOMESTIC CORPORATION

61-6 Rev. 6-66

ACCOUNT NO.

P 52357

TO: The Secretary of the State of Connecticut

NAME OF CORPORATION

Photronic Labs Incorporated

APPOINTMENT

The above corporation appoints as its statutory agent for service, one of the following:

NAME OF NATURAL PERSON WHO IS RESIDENT OF CONNECTICUT

Armindo J. Rebeiro

BUSINESS ADDRESS

20 Ta'Agan Point Road, Danbury

RESIDENCE ADDRESS

Ta'Agan Point Road, Danbury

NAME OF CONNECTICUT CORPORATION

ADDRESS OF PRINCIPAL OFFICE IN CONN. (if none, enter address of appointee' statutory agent for services)

NAME OF CORPORATION not Original Under the Laws of Conn.

ADDRESS OF PRINCIPAL OFFICE IN CONN. (if none, enter "Secretary or the State Connecticut")

Which has procured a Certificate of Authority to transact business or conduct affairs in this state.

AUTHORIZATION

NAME OF INCORPORATOR (Print or type)	SIGNED(Incorporator)	DATE
ORIGINAL APPOINTMENT (Must be signed by a majority)	Gerard P. Keehan Edward O. Law Edward G. Keehan	/s/ Gerard P. Keehan /s/ Edward O. Law /s/ Edward G. Keehan
		February 24, 1969
NAME OF PRESIDENT, VICE PRESIDENT, OR SEC.	SIGNED(President or Vice President, or Secretary)	DATE
SUBSEQUENT APPOINTMENT		

ACCEPTANCE

NAME OF STATUTORY AGENT FOR SERVICE (Print or Type)	SIGNED (Statutory Agent for service)
Accepted: Armino J. Rebeiro	/s/ Armino J. Rebeiro

Exhibit 10.11

November 10, 2008

Mr. Constantine S. Macricostas
5509 Pennock Point Road
Jupiter, Florida 33458

Dear Mr. Macricostas:

Reference is made to the Consulting Agreement between you and Photronics, Inc. (“Photronics”) dated July 11, 2005 (the “Consulting Agreement”). When you became an employee of Photronics on November 10, 2008, it was agreed that your Consulting Agreement would be suspended for the period of time that you are an employee of Photronics. The Consulting Agreement will re-instate in the event you are no longer an employee of Photronics. Furthermore, the term of your Consulting Agreement will be extended for the period of time that were Interim Chief Executive Officer and an employee of Photronics. Except as set forth above, all other terms of the Consulting Agreement will be the same once the Consulting Agreement is re-instated.

If the foregoing accurately sets forth your understanding, please so indicate by signing in the space provided below.

Very truly yours,
Photronics, Inc.
By: /s/ Richelle Burr
Title: Vice President, Associate General Counsel

Agreed to and accepted by:

/s/ Constantine Macricostas

J.P.Morgan

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

December 5, 2013

among

PHOTRONICS, INC.

The Foreign Subsidiary Borrowers Party Hereto

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.
as Administrative Agent and Collateral Agent

RBS CITIZENS, NATIONAL ASSOCIATION
as Syndication Agent

J.P. MORGAN SECURITIES LLC,
as Sole Bookrunner and Sole Lead Arranger

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THIRD AMENDED AND RESTATED CREDIT AGREEMENT (this “Agreement”) dated as of December 5, 2013 among PHOTRONICS, INC., the FOREIGN SUBSIDIARY BORROWERS from time to time party hereto, the LENDERS from time to time party hereto, RBS CITIZENS, NATIONAL ASSOCIATION, as Syndication Agent, and JPMORGAN CHASE BANK, N.A., as Administrative Agent and Collateral Agent.

WHEREAS, the Company, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent and collateral agent thereunder, are currently party to the Second Amended and Restated Credit Agreement, dated as of March 2, 2012 (as amended, supplemented or otherwise modified prior to the date hereof, the “Existing Agreement”).

WHEREAS, the Company, the Lenders, the Administrative Agent and the Collateral Agent have agreed to enter into this Agreement in order to (i) amend and restate the Existing Agreement in its entirety; (ii) re-evidence the “Obligations” under, and as defined in, the Existing Agreement, which shall be repayable in accordance with the terms of this Agreement; and (iii) set forth the terms and conditions under which the Lenders will, from time to time, make loans and extend other financial accommodations to or for the benefit of the Borrowers.

WHEREAS, it is the intent of the parties hereto that this Agreement not constitute a novation of the obligations and liabilities of the parties under the Existing Agreement or be deemed to evidence or constitute full repayment of such obligations and liabilities, but that this Agreement amend and restate in its entirety the Existing Agreement and re-evidence the obligations and liabilities of the Company and the Subsidiaries outstanding thereunder, which shall be payable in accordance with the terms hereof.

WHEREAS, it is also the intent of the Company and the Subsidiary Guarantors to confirm that all obligations under the applicable “Loan Documents” (as referred to and defined the Existing Agreement) shall continue in full force and effect as modified or restated by the Loan Documents (as referred to and defined herein) and that, from and after the Effective Date, all references to the “Credit Agreement” contained in any such existing “Loan Documents” shall be deemed to refer to this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree that the Existing Agreement is hereby amended and restated as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

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

“Adjusted LIBO Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“ Administrative Agent ” means JPMorgan Chase Bank, N.A. (including its branches and affiliates), in its capacity as administrative agent for the Lenders hereunder.

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

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

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

“ Agent Party ” has the meaning assigned to such term in Section 9.01(d).

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

“ Aggregate Commitment ” means the aggregate of the Commitments of all of the Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Effective Date, the Aggregate Commitment is \$50,000,000.

“ Agreed Currencies ” means (i) Dollars and (ii) any other currency (x) that is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars, (y) for which a LIBOR Screen Rate is available in the Administrative Agent’s determination and (z) that is agreed to by the Administrative Agent and each of the Lenders.

“ Alternate Base Rate ” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; provided that, for the avoidance of doubt, the Adjusted LIBO Rate for any day shall be based on the rate appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such page) at approximately 11:00 a.m. London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

“ Anti-Corruption Laws ” means all laws, rules, and regulations of any jurisdiction applicable to the Company or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“ Applicable Percentage ” means, with respect to any Lender, the percentage equal to a fraction the numerator of which is such Lender’s Commitment and the denominator of which is the Aggregate Commitment (if the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments); provided that, in the case of Section 2.24 when a Defaulting Lender shall exist, any such Defaulting Lender’s Commitment shall be disregarded in the calculation.

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

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

	<u>Total Leverage Ratio:</u>	<u>Commitment Fee Rate</u>	<u>Eurocurrency Spread</u>	<u>ABR Spread</u>
<u>Category 1:</u>	≤ 1.00 to 1.00	0.20%	1.25%	0.25%
<u>Category 2:</u>	> 1.00 to 1.00 but ≤ 1.50 to 1.00	0.25%	1.50%	0.50%
<u>Category 3:</u>	> 1.50 to 1.00 but ≤ 2.00 to 1.00	0.30%	1.75%	0.75%
<u>Category 4:</u>	> 2.00 to 1.00	0.35%	2.00%	1.00%

For purposes of the foregoing,

(i) if at any time the Company fails to deliver the Financials on or before the date the Financials are due pursuant to Section 5.01, Category 4 shall be deemed applicable for the period commencing five (5) Business Days after the required date of delivery and ending on the date which is five (5) Business Days after the Financials are actually delivered, after which the Category shall be determined in accordance with the table above as applicable;

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

(iii) notwithstanding the foregoing, Category 3 shall be deemed to be applicable until the Administrative Agent’s receipt of the applicable Financials for the Company’s first fiscal quarter ending after the Effective Date (unless such Financials demonstrate that Category 4 should have been applicable during such period, in which case such other Category shall be deemed to be applicable during such period) and adjustments to the Category then in effect shall thereafter be effected in accordance with the preceding paragraphs.

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

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

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

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

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

“ Available Revolving Commitment ” means, at any time with respect to any Lender, the Commitment of such Lender then in effect *minus* the Revolving Credit Exposure of such Lender at such time (excluding, for the purpose of calculating the commitment fee under Section 2.12, any Lender’s Swingline Exposure).

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

“ Banking Services Agreement ” means any agreement entered into by the Company or any Subsidiary in connection with Banking Services.

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

“ Bankruptcy Event ” means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

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

“ Borrower ” means the Company or any Foreign Subsidiary Borrower.

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

“ Borrowing Request ” means a request by any Borrower for a Revolving Borrowing in accordance with Section 2.03 in the form attached hereto as Exhibit I-1.

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

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

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurocurrency Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in the relevant Agreed Currency in the London interbank market or the principal financial center of such Agreed Currency (and, if the Borrowings or LC Disbursements which are the subject of a borrowing, drawing, payment, reimbursement or rate selection are denominated in euro, the term “Business Day” shall also exclude any day on which the TARGET2 payment system is not open for the settlement of payments in euro).

“Capital Expenditures” means, without duplication, any cash expenditures for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a consolidated balance sheet of the Company and its Subsidiaries prepared in accordance with GAAP.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that obligations for payment of rent under operating leases if and to the extent such leases are or would be classified as operating leases under applicable Accounting Standards Codification recognized by the Financial Accounting Standards Board as in effect as of the date of this Agreement but are required to be reclassified as capital leases as a result of amendments to such Accounting Standards Codification made in accordance with those accounting standards proposed in the Proposed Accounting Standards Update (Revised), Leases (Topic 842), exposure draft issued on May 16, 2013 (a revision of the Proposed Accounting Standards Update, Leases (Topic 840), issued August 17, 2010) shall not constitute Capital Lease Obligations hereunder.

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

“Change in Law” means the occurrence, after the date of this Agreement (or with respect to any Lender, if later, the date on which such Lender becomes a Lender), of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, rules, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law” regardless of the date enacted, adopted, issued or implemented.

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

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

“ COF Rate ” has the meaning assigned to such term in Section 2.14(a).

“ Collateral ” means all Pledged Equity, all “Collateral” as defined in the Security Agreement and all other property pledged in favor of the Collateral Agent, on behalf of itself and the Holders of Secured Obligations, pursuant to the Mortgages and any other Collateral Document from time to time.

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

“ Collateral Documents ” means, collectively, the Security Agreement, the Pledge Agreements, the Mortgages and all other agreements, instruments and documents executed in connection with this Agreement that are intended to create, evidence or perfect Liens to secure the Secured Obligations.

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

“ Commodity Exchange Act ” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“ Communications ” has the meaning assigned to such term in Section 9.01(d).

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

“ Computation Date ” is defined in Section 2.04.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period, minus the aggregate amount of extraordinary, unusual or non-recurring income or gains for such period to the extent required to be separately stated in the Company’s financial statements in accordance with GAAP, minus any unrealized non-cash gains or income attributable to the application of “mark to market” accounting rules in accordance with GAAP for such period, plus, without duplication and to the extent deducted from revenues in determining Consolidated Net Income for such period, the sum of (a) the aggregate amount of Consolidated Interest Expense for such period, plus (b) the aggregate amount of income tax expense for such period, plus (c) the aggregate amount of depreciation and amortization for such period, plus (d) non-cash expenses related to stock-based compensation, plus (e) any extraordinary or non-recurring non-cash expenses, write-downs, write-offs, or losses including impairment or restructuring charges or any unrealized non-cash losses attributable to the application of “mark to market” accounting rules in accordance with GAAP for such period, plus (f) any write-downs, write-offs, or losses incurred in connection with the repayment of the Existing Convertible Notes described in clause (i) of the definition thereof, plus (g) the aggregate amount of attorney, accounting and investment banking fees, costs and expenses and other out-of-pocket one-time expenses incurred in connection with the negotiation and creation of the Taiwan JV during such period, plus (h) the aggregate amount of fees, costs and expenses paid on the Effective Date to the Administrative Agent and the Lenders, including for reimbursement of costs, fees or expenses of the Administrative Agent or any Lender, in connection with the Loan Documents and/or the transactions contemplated thereby, all as determined on a consolidated basis with respect to the Company and its consolidated Subsidiaries in accordance with GAAP, minus, to the extent included in determining Consolidated Net Income for such period, any cash payments made during such period in respect of items described in clauses (d) and (e) above subsequent to the fiscal quarter in which the relevant non-cash expense or loss was reflected in a statement of Consolidated Net Income. For the purposes of calculating Consolidated EBITDA for any period of four consecutive fiscal quarters (each, a “Reference Period”), (i) if at any time during such Reference Period the Company or any Subsidiary shall have made any Material Disposition, the Consolidated EBITDA for such Reference Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Reference Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Reference Period, and (ii) if during such Reference Period the Company or any Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto as if such Material Acquisition occurred on the first day of such Reference Period. As used in this definition, “Material Acquisition” means any acquisition of property or series of related acquisitions of property (excluding, for the avoidance of doubt, the acquisition of property pursuant to the Taiwan JV Transactions) that (a) constitutes (i) assets comprising all or substantially all or any significant portion of a business or operating unit of a business, or (ii) all or substantially all of the common stock or other Equity Interests of a Person, and (b) involves the payment of consideration by the Company and its Subsidiaries in excess of \$10,000,000; and “Material Disposition” means any sale, transfer or disposition of property or series of related sales, transfers, or dispositions of property that yields gross proceeds to the Company or any of its Subsidiaries in excess of \$10,000,000.

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

“ Consolidated Net Income ” means, with reference to any period, the net income (or loss) of the Company and its Subsidiaries calculated in accordance with GAAP on a consolidated basis (without duplication) for such period; provided that there shall be excluded (a) the income (or deficit) of any Person (other than a Subsidiary of the Company) in which the Company or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Company or such Subsidiary in the form of dividends or similar distributions and (b) the undistributed earnings of any Subsidiary of the Company to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or any organizational or governing documents, any law, treaty, rule or regulation or any determination of an arbitrator or other Governmental Authority, in each case applicable to such Subsidiary.

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

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

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

“ Country Risk Event ” means:

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

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

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

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

(ii) force majeure; or

(iii) any similar event

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

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

“Credit Party” means the Administrative Agent, any Issuing Bank, the Swingline Lender or any other Lender.

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

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

“Defaulting Lender” means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Company or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event.

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

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

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

“ECP” means an “eligible contract participant” as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

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

“ Electronic Signature ” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“ Electronic System ” means any electronic system, including e-mail, e-fax, Intralinks®, ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and the Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

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

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

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

“ Equity Interests ” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing. Notwithstanding the foregoing, neither Permitted Convertible Notes nor Permitted Call Spread Swap Agreements shall constitute Equity Interests.

“ Equivalent Amount ” of any currency with respect to any amount of Dollars at any date shall mean the equivalent in such currency of such amount of Dollars, calculated on the basis of the Exchange Rate for such other currency at 11:00 a.m., London time, on the date on or as of which such amount is to be determined.

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

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

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

“EU” means the European Union.

“euro” and/or “EUR” means the single currency of the Participating Member States.

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

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

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

“Exchange Rate” means, on any day, with respect to any Foreign Currency, the rate at which such Foreign Currency may be exchanged into Dollars, as set forth at approximately 11:00 a.m., Local Time, on such date on the Reuters World Currency Page for such Foreign Currency. In the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate with respect to such Foreign Currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Administrative Agent or, in the event no such service is selected, such Exchange Rate shall instead be calculated on the basis of the arithmetical mean of the buy and sell spot rates of exchange of the Administrative Agent for such Foreign Currency on the London market at 11:00 a.m., Local Time, on such date for the purchase of Dollars with such Foreign Currency, for delivery two (2) Business Days later; provided, that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent, after consultation with the Company, may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Excluded Swap Obligation” means, with respect to any Loan Party, any Specified Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Specified Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party’s failure for any reason to constitute an ECP at the time the Guarantee of such Loan Party or the grant of such security interest becomes effective with respect to such Specified Swap Obligation. If a Specified Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Specified Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

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

“Existing Agreement” is defined in the recitals hereof.

“Existing Convertible Notes” means (i) the 5.5% Convertible Notes due 2014 issued pursuant to the Supplement to Indenture between the Borrower and The Bank of New York as Trustee dated September 16, 2009 and (ii) the 3.25% Convertible Senior Notes due 2016 issued pursuant to the Indenture dated March 28, 2011 and the First Supplemental Indenture dated April 27, 2011, between the Borrower and The Bank of Nova Scotia Trust Company of New York as Trustee, in each case, as amended, restated, replaced, refinanced, supplemented or otherwise modified from time to time.

“Existing Letters of Credit” is defined in Section 2.06(a).

“Existing Loans” is defined in Section 2.01.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

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

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

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

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

“Foreign Borrower Sublimit” means \$25,000,000.

“Foreign Currencies” means Agreed Currencies other than Dollars.

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

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

“Foreign Currency Sublimit” means \$25,000,000.

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

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

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

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

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

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

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

“Holders of Secured Obligations” means the Secured Parties.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate”.

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

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

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

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable and accrued expenses incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (k) all obligations of such Person under any Swap Agreement or under any similar type of agreement and (l) all obligations of such Person under Sale and Leaseback Transactions. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. Notwithstanding the foregoing and for avoidance of doubt, obligations arising under any Permitted Call Spread Swap Agreement shall not be considered Indebtedness.

“Indemnified Taxes” means Taxes, other than Excluded Taxes, and Other Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document.

“Ineligible Institution” has the meaning assigned to such term in Section 9.04(b)

“Information Memorandum” means the lender presentation dated November 15, 2013 relating to the Company and the Transactions.

“Interest Election Request” means a request by the applicable Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08 in the form attached hereto as Exhibit I-2.

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

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

“ Interpolated Rate ” means, at any time, the rate per annum determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBOR Screen Rate for the longest period (for which the LIBOR Screen Rate is available for the applicable currency) that is shorter than the Impacted Interest Period and (b) the LIBOR Screen Rate for the shortest period (for which the LIBOR Screen Rate is available for the applicable currency) that exceeds the Impacted Interest Period, in each case, at such time.

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

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

“ LC Collateral Account ” has the meaning assigned to such term in Section 2.06(j).

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

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

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

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

“ LIBO Rate ” means, with respect to any Eurocurrency Borrowing denominated in any Agreed Currency and for any applicable Interest Period, the London interbank offered rate administered by the British Bankers Association (or any other Person that takes over the administration of such rate) for such Agreed Currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen or, in the event such rate does not appear on either of such Reuters pages, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion (in each case the “ LIBOR Screen Rate ”) at approximately 11:00 a.m., London time, on the Quotation Day for such currency and Interest Period; provided that, if the LIBOR Screen Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, that if a LIBOR Screen Rate shall not be available at such time for such Interest Period (the “ Impacted Interest Period ”), then the LIBO Rate for such currency and such Interest Period shall be the Interpolated Rate; provided, that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement. It is understood and agreed that all of the terms and conditions of this definition of “LIBO Rate” shall be subject to Section 2.14.

“ LIBOR Screen Rate ” has the meaning assigned to such term in the definition of “LIBO Rate”.

“ Lien ” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“ Loan Documents ” means this Agreement, each Borrowing Subsidiary Agreement, each Borrowing Subsidiary Termination, the Subsidiary Guaranty, the Collateral Documents (including, without limitation, the Pledge Agreements), any promissory notes executed and delivered pursuant to Section 2.10(e) and any and all other instruments and documents executed and delivered in connection with any of the foregoing.

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

“ Loans ” means the loans made by the Lenders to the Borrowers, or otherwise incurred by the Borrowers, pursuant to this Agreement.

“ Local Time ” means (i) New York City time in the case of a Loan, Borrowing or LC Disbursement denominated in Dollars and (ii) local time in the case of a Loan, Borrowing or LC Disbursement denominated in a Foreign Currency (it being understood that such local time shall mean London, England time unless otherwise notified by the Administrative Agent).

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

“Material Indebtedness” means any Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Company and its Subsidiaries in an aggregate principal amount exceeding \$10,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

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

“Maturity Date” means December 5, 2018.

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

“Mortgage” means each mortgage, deed of trust or other agreement which conveys or evidences a Lien in favor of the Collateral Agent, for the benefit of the Collateral Agent and the Holders of Secured Obligations, on real property of a Loan Party, including any amendment, restatement, modification or supplement thereto, each in form and substance reasonably acceptable to the Collateral Agent and the Company.

“Mortgage Instruments” means such title reports, title insurance, flood certifications and flood insurance, opinions of counsel, surveys, appraisals and environmental reports and other similar information and related certifications as are reasonably requested by, and in form and substance reasonably acceptable to, the Collateral Agent from time to time.

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

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

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

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of Treasury.

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

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

“Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

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

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

“Participating Member State” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

“Patriot Act” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

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

“ Permitted Acquisition ” means any acquisition (whether by purchase, merger, consolidation or otherwise) or series of related acquisitions by the Company or any Subsidiary of all or substantially all the assets of, or more than a majority of the Equity Interests in, a Person or division or line of business of a Person if, at the time of and immediately after giving effect thereto, (a) no Default has occurred and is continuing or would arise after giving effect thereto, (b) such Person or division or line of business is engaged in the same or a similar line of business as the Company and the Subsidiaries or business reasonably related or complimentary thereto, (c) all actions required to be taken with respect to such acquired or newly formed Subsidiary under Sections 5.09 and 5.10 shall have been taken, (d) (i) the Company and the Subsidiaries are in compliance with the covenants contained in Sections 6.11(a) and 6.11(c) and (ii) the Total Leverage Ratio is less than or equal to 2.25 to 1.00, in each case on a Pro Forma Basis after giving effect to such acquisition and recomputed as of the last day of the most recently ended fiscal quarter of the Company for which financial statements are available, as if such acquisition (and any related incurrence or repayment of Indebtedness, with any new Indebtedness being deemed to be amortized over the applicable testing period in accordance with its terms) had occurred on the first day of each relevant period for testing such compliance and, if the aggregate consideration (including the concurrent repayment or assumption of any indebtedness and related investments) paid in respect of such acquisition exceeds \$10,000,000, the Company shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Company to such effect, together with all relevant financial information, statements and projections requested by the Administrative Agent and (e) in the case of an acquisition or merger involving the Company or a Subsidiary, the Company or such Subsidiary is the surviving entity of such merger and/or consolidation.

“ Permitted Call Spread Swap Agreements ” means (a) any Swap Agreement (including, but not limited to, any bond hedge transaction or capped call transaction) pursuant to which the Company acquires an option requiring the counterparty thereto to deliver to the Company shares of common stock of the Company, the cash value of such shares or a combination thereof from time to time upon exercise of such option and (b) any Swap Agreement pursuant to which the Company issues to the counterparty thereto warrants to acquire common stock of the Company (whether such warrant is settled in shares, cash or a combination thereof), in each case entered into by the Company in connection with the issuance of Convertible Debt Securities; provided that (i) the terms, conditions and covenants of each such Swap Agreement shall be such as are customary for Swap Agreements of such type (as determined by the Board of Directors of the Company in good faith) and (ii) in the case of clause (b) above, such Swap Agreement would be classified as an equity instrument in accordance with GAAP, and the settlement of such Swap Agreement does not require the Company to make any payment in cash or cash equivalents that would disqualify such Swap Agreement from so being classified as an equity instrument.

“ Permitted Convertible Notes ” means (i) the Existing Convertible Notes and (ii) any unsecured notes issued by the Company that are convertible into common stock of the Company, cash or any combination thereof and are permitted to be issued pursuant to the definition of Permitted Unsecured Indebtedness.

“ Permitted Encumbrances ” means:

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

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

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

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

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

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

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

“Permitted Investments” means:

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

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

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

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

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

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

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

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

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

“ Permitted Unsecured Indebtedness ” means any unsecured Indebtedness of the Company (including (x) any Permitted Convertible Notes and (y) unsecured Subordinated Indebtedness to the extent subordinated to the Secured Obligations on terms reasonably acceptable to the Administrative Agent) so long as (i) the Indebtedness thereunder does not mature, and is otherwise not subject to any mandatory prepayment, redemption, defeasance, scheduled amortization or other scheduled payments of principal, in each case prior to the date that is six (6) months after the Maturity Date (it being understood that neither (x) any provision requiring an offer to purchase such Indebtedness as a result of change of control or asset sale or other fundamental change nor (y) any early conversion of any Permitted Convertible Notes in accordance with the terms thereof shall violate the foregoing restriction), (ii) both immediately prior to and after giving effect (including giving effect on a Pro Forma Basis) thereto, (x) no Default or Event of Default shall exist or would result therefrom and (y) the Company shall be in compliance with the covenants contained in Section 6.11, (iii) such Indebtedness is not guaranteed by any Subsidiary of the Company other than the Subsidiary Guarantors (which guarantees, if such Indebtedness is subordinated, shall be expressly subordinated to the Secured Obligations on terms not less favorable to the Lenders than the subordination terms of such Subordinated Indebtedness) and (iv) the covenants applicable to such Indebtedness are not more onerous or more restrictive in any material respect (taken as a whole) than the applicable covenants set forth in this Agreement.

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

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

“ PKLT ” means PKLT Co., Ltd., a Taiwanese corporation.

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

“ Pledge Agreements ” means that certain Second Amended and Restated Pledge Agreement substantially in the form of Exhibit H (including any and all supplements thereto) dated as of the Effective Date and executed by the relevant Loan Parties, and, in the case of any pledge of Equity Interests of a Foreign Subsidiary, any other pledge agreements, share mortgages, charges and comparable instruments and documents from time to time executed pursuant to the terms of Section 5.09 in favor of the Collateral Agent for the benefit of the Holder of Secured Obligations as amended, restated, supplemented or otherwise modified from time to time.

“ Pledge Subsidiary ” means (i) each Domestic Subsidiary and (ii) each First Tier Foreign Subsidiary that is a Material Subsidiary.

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

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

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

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

“PSMC” means Photronics Semiconductor Mask Corporation, a Republic of China corporation or its successors and assigns, including the Taiwan JV, so long as such successor or assign qualifies as a Subsidiary.

“PSMC Acquisition” means the purchase of all of the outstanding publicly traded Equity Interests of PSMC by the Company and/or Photronics Advanced Mask Corporation, a wholly-owned Subsidiary of the Company (“PAMC”), for aggregate consideration in an amount not to exceed \$35,000,000; provided that the PSMC Acquisition shall be consummated as follows:

1. The Company will contribute all of the Equity Interests in PSMC held by the Company to PAMC, in exchange for additional Equity Interests of PAMC.

2. PAMC will offer to purchase for cash all remaining publicly traded Equity Interests of PSMC held by certain minority shareholders (such outstanding Equity Interests of PSMC, the “PSMC Minority Interest”). Upon completion of the transactions described in clauses (1) and (2) above (the “Cash Option”), (x) PAMC will remain a wholly-owned Subsidiary of the Company and (y) PSMC will become a wholly-owned Subsidiary of PAMC.

3. To the extent the purchase of the entire PSMC Minority Interest described in clause (2) above cannot be consummated, such remaining minority shareholders shall receive Equity Interests of PAMC in exchange for the remaining PSMC Minority Interest (such Equity Interests of PAMC, the “PAMC Minority Interest”).

4. In connection with the transactions described in clause (3) above, and for the purpose of eliminating the PAMC Minority Interest, PAMC will merge with and into the Company (with the Company as the surviving entity). Upon the completion of the transactions described in clauses (1), (2), (3) and (4) above (the “Merger Option”), (x) PAMC will merge out of existence and (y) PSMC will become a wholly-owned Subsidiary of the Company.

“Quotation Day” means, with respect to any Eurocurrency Borrowing for any Interest Period, (i) if the currency is Pounds Sterling, the first day of such Interest Period, (ii) if the currency is euro, the day that is two (2) TARGET2 Days before the first day of such Interest Period, and (iii) for any other currency, two Business Days prior to the commencement of such Interest period (unless, in each case, market practice differs in the relevant market where the LIBO Rate for such currency is to be determined, in which case the Quotation Day will be determined by the Administrative Agent in accordance with market practice in such market (and if quotations would normally be given on more than one day, then the Quotation Day will be the last of those days)).

“ Reference Bank Rate ” means the arithmetic mean of the rates (rounded upwards to four decimal places) supplied to the Administrative Agent at its request by the Reference Banks (as the case may be) as of the applicable time on the Quotation Day for Loans in the applicable currency and the applicable Interest Period as the rate at which the relevant Reference Bank could borrow funds in the London interbank market in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers in reasonable market size in that currency and for that period.

“ Reference Banks ” means the principal London offices of JPMorgan Chase Bank, N.A. and such other banks as may be appointed by the Administrative Agent in consultation with the Company.

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

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

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

“ Required Lenders ” means, at any time, two (2) or more Lenders having Revolving Credit Exposures and unused Commitments representing more than 50% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

“ Restricted Payment ” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Company or any Subsidiary or any option, warrant or other right to acquire any such Equity Interests in the Company or any Subsidiary. Notwithstanding the foregoing, and for the avoidance of doubt, (i) the conversion of (including any cash payment upon conversion), or payment of any principal or premium on, or payment of any interest with respect to, any Permitted Convertible Notes shall not constitute a Restricted Payment and (ii) any payment with respect to, or early unwind or settlement of, any Permitted Call Spread Swap Agreement shall not constitute a Restricted Payment.

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

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

“ S&P ” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

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

“ Sanctioned Country ” means, at any time, a country or territory which is the subject or target of any Sanctions.

“ Sanctioned Person ” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union or any EU member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” means the United States Securities and Exchange Commission.

“Secured Obligations” means all Obligations, together with all (i) Banking Services Obligations and (ii) Swap Obligations owing to one or more Secured Parties or their respective Affiliates ; provided that (i) obligations arising under Permitted Call Spread Swap Agreements shall not be considered Secured Obligations and (ii) the definition of “Secured Obligations” shall not create or include any guarantee by any Loan Party of (or grant of security interest by any Loan Party to support, as applicable) any Excluded Swap Obligations of such Loan Party for purposes of determining any obligations of any Loan Party.

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

“Security Agreement” means that certain Second Amended and Restated Security Agreement (including any and all supplements thereto), dated as of the Effective Date, between the Loan Parties and the Collateral Agent, for the benefit of the Collateral Agent and the other Holders of Secured Obligations, as the same may be amended, restated or otherwise modified from time to time.

“Specified Swap Obligation” means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

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

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

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

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

“ Subsidiary ” means any subsidiary of the Company.

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

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

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

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

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

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

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

“Syndication Agent” means RBS Citizens, National Association, in its capacity as syndication agent for the credit facility evidenced by this Agreement.

“Taiwan JV” means the Joint Venture between the Company and Dai Nippon Printing Co., Ltd. publicly announced by the Company on November 20, 2013.

“Taiwan JV Transactions” means the transactions described in Schedule 6.04 hereto related to the creation and operation of the Taiwan JV.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system (or, if such payment system ceases to be operative, such other payment system (if any) reasonably determined by the Administrative Agent to be a suitable replacement) for the settlement of payments in euro.

“TARGET2 Day” means a day that TARGET2 is open for the settlement of payments in euro.

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

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

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

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

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

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

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

SECTION 1.03. Terms Generally . The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders and decrees, of all Governmental Authorities. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP . Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Company notifies the Administrative Agent that the Company requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Company or any Subsidiary at “fair value”, as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

SECTION 1.05. Status of Secured Obligations . In the event that the Company or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Company shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Secured Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent and the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Secured Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” and words of similar import under and in respect of any indenture or other agreement or instrument under which such other Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

SECTION 1.06. Amendment and Restatement of the Existing Agreement. The parties to this Agreement agree that, upon (i) the execution and delivery by each of the parties hereto of this Agreement and (ii) satisfaction of the conditions set forth in Section 4.01, the terms and provisions of the Existing Agreement shall be and hereby are amended, superseded and restated in their entirety by the terms and provisions of this Agreement. This Agreement is not intended to and shall not constitute a novation. All Loans made and Secured Obligations incurred under the Existing Agreement which are outstanding on the Effective Date shall continue as Loans and Secured Obligations under (and shall be governed by the terms of) this Agreement and the other Loan Documents. Without limiting the foregoing, upon the effectiveness hereof: (a) all references in the “Loan Documents” (as defined in the Existing Agreement) to the “Administrative Agent”, the “Credit Agreement” and the “Loan Documents” shall be deemed to refer to the Administrative Agent, this Agreement and the Loan Documents, (b) the Existing Letters of Credit which remain outstanding on the Effective Date shall continue as Letters of Credit under (and shall be governed by the terms of) this Agreement, (c) all obligations constituting “Secured Obligations” with any Lender or any Affiliate of any Lender which are outstanding on the Effective Date shall continue as Secured Obligations under this Agreement and the other Loan Documents, (d) the Administrative Agent shall make such reallocations, sales, assignments or other relevant actions in respect of each Lender’s credit and loan exposure under the Existing Agreement as are necessary in order that each such Lender’s Revolving Credit Exposure and outstanding Revolving Loans hereunder reflects such Lender’s Applicable Percentage of the outstanding aggregate Revolving Credit Exposures on the Effective Date and (e) the Company hereby agrees to compensate each Lender for any and all losses, costs and expenses incurred by such Lender in connection with the sale and assignment of any Eurocurrency Loans (including the “Eurocurrency Loans” under the Existing Agreement) and such reallocation described above, in each case on the terms and in the manner set forth in Section 2.16 hereof.

ARTICLE II

The Credits

SECTION 2.01. Commitments. Prior to the Effective Date, certain revolving loans were previously made to the Company under the Existing Agreement which remain outstanding as of the date of this Agreement (such outstanding revolving loans being hereinafter referred to as the “Existing Loans”). Subject to the terms and conditions set forth in this Agreement, the Borrowers and each of the Lenders agree that on the Effective Date but subject to the satisfaction of the conditions precedent set forth in Section 4.01 and the reallocation and other transactions described in Section 1.05, the Existing Loans shall be reevidenced as Revolving Loans under this Agreement and the terms of the Existing Loans shall be restated in their entirety and shall be evidenced by this Agreement. Subject to the terms and conditions set forth herein, each Lender (severally and not jointly) agrees to make Revolving Loans to any Borrower in Agreed Currencies from time to time during the Availability Period in an aggregate principal amount that will not result in (i) subject to Sections 2.04 and 2.11(b), the Dollar Amount of such Lender’s Revolving Credit Exposure exceeding such Lender’s Commitment, (ii) subject to Sections 2.04 and 2.11(b), the sum of the Dollar Amount of the total Revolving Credit Exposures exceeding the Aggregate Commitment, (iii) subject to Sections 2.04 and 2.11(b), the Dollar Amount of the total outstanding Revolving Loans and LC Exposure, in each case denominated in Foreign Currencies, exceeding the Foreign Currency Sublimit or (iv) subject to Section 2.04, the Dollar Amount of the total outstanding Revolving Loans made to Foreign Subsidiary Borrowers exceeding the Foreign Borrower Sublimit. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, repay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings. (a) Each Revolving Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. Any Swingline Loan shall be made in accordance with the procedures set forth in Section 2.05.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the relevant Borrower may request in accordance herewith; provided that each ABR Loan shall only be made in Dollars. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the relevant Borrower to repay such Loan in accordance with the terms of this Agreement.

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

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

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

- (i) the name of the applicable Borrower;
- (ii) the aggregate amount of the requested Borrowing;
- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (v) in the case of a Eurocurrency Borrowing, the Agreed Currency and initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period”; and
- (vi) the location and number of the applicable Borrower’s account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

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

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

- (a) each Eurocurrency Borrowing as of the date three (3) Business Days prior to the date of such Borrowing or, if applicable, the date of conversion/continuation of any Borrowing as a Eurocurrency Borrowing,
- (b) the LC Exposure as of the date of each request for the issuance, amendment, renewal or extension of any Letter of Credit, and
- (c) all outstanding Credit Events on and as of the last Business Day of each calendar quarter and, during the continuation of an Event of Default, on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders.

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

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

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

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Company of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Company (or other party on behalf of the Company) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Company for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Company of any default in the payment thereof.

SECTION 2.06. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Company may request the issuance of Letters of Credit denominated in Agreed Currencies for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Administrative Agent and the relevant Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Company to, or entered into by the Company with, the relevant Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control; provided, however, if such Issuing Bank is requested to issue Letters of Credit with respect to a jurisdiction the relevant Issuing Bank deems, in its reasonable judgment, may at any time subject it to a New Money Credit Event or a Country Risk Event, the Company shall, at the request of an Issuing Bank, guaranty and indemnify the requesting Issuing Bank against any and all costs, liabilities and losses resulting from such New Money Credit Event or Country Risk Event, in each case in a form and substance reasonably satisfactory to the relevant Issuing Bank. The letters of credit identified on Schedule 2.06 (the "Existing Letters of Credit") shall be deemed to be "Letters of Credit" issued on the Effective Date for all purposes of the Loan Documents. The Company unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Subsidiary's obligations as provided in the first sentence of this paragraph, the Company will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under Section 2.12(b) to the same extent as if it were the sole account party in respect of such Letter of Credit (the Company hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such a Subsidiary that is an account party in respect of any such Letter of Credit).

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Company shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the relevant Issuing Bank) to an Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the Agreed Currency applicable thereto, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by an Issuing Bank, the Company also shall submit a letter of credit application on the relevant Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension and, subject to Sections 2.04 and 2.11(b), (i) the Dollar Amount of the LC Exposure shall not exceed \$30,000,000, (ii) the Dollar Amount of the total Revolving Credit Exposures shall not exceed the Aggregate Commitment and (iii) the Dollar Amount of the total outstanding Revolving Loans and LC Exposure, in each case denominated in Foreign Currencies, shall not exceed the Foreign Currency Sublimit.

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

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

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Company shall reimburse such LC Disbursement by paying to the Administrative Agent in Dollars the Dollar Amount equal to such LC Disbursement, calculated as of the date such Issuing Bank made such LC Disbursement (or if an Issuing Bank shall so elect in its sole discretion by notice to the Company, in such other Agreed Currency which was paid by such Issuing Bank pursuant to such LC Disbursement in an amount equal to such LC Disbursement) not later than 12:00 noon, Local Time, on the date that such LC Disbursement is made, if the Company shall have received notice of such LC Disbursement prior to 10:00 a.m., Local Time, on such date, or, if such notice has not been received by the Company prior to such time on such date, then not later than 12:00 noon, Local Time, on (i) the Business Day that the Company receives such notice, if such notice is received prior to 10:00 a.m., Local Time, on the day of receipt, or (ii) the Business Day immediately following the day that the Company receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Company may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent Dollar Amount of such LC Disbursement and, to the extent so financed, the Company's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Company fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Company in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Company, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the relevant Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Company pursuant to this paragraph, the Administrative Agent shall distribute such payment to the relevant Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Company of its obligation to reimburse such LC Disbursement. If the Company's reimbursement of, or obligation to reimburse, any amounts in any Foreign Currency would subject the Administrative Agent, any Issuing Bank or any Lender to any stamp duty, ad valorem charge or similar tax that would not be payable if such reimbursement were made or required to be made in Dollars, the Company shall, at its option, either (x) pay the amount of any such tax requested by the Administrative Agent, the relevant Issuing Bank or the relevant Lender or (y) reimburse each LC Disbursement made in such Foreign Currency in Dollars, in an amount equal to the Equivalent Amount, calculated using the applicable Exchange Rates, on the date such LC Disbursement is made, of such LC Disbursement.

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

(g) Disbursement Procedures. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Each Issuing Bank shall promptly notify the Administrative Agent and the Company by telephone (confirmed by telecopy) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Company of its obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

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

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

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Company receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, from two (2) or more Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Company shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the “LC Collateral Account”), an amount in cash equal to the Dollar Amount of the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that (i) the portions of such amount attributable to undrawn Foreign Currency Letters of Credit or LC Disbursements in a Foreign Currency that the Company is not late in reimbursing shall be deposited in the applicable Foreign Currencies in the actual amounts of such undrawn Letters of Credit and LC Disbursements and (ii) the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Company described in clause (h) or (i) of Article VII. For the purposes of this paragraph, the Foreign Currency LC Exposure shall be calculated using the applicable Exchange Rate on the date notice demanding cash collateralization is delivered to the Company. The Company also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.11(b). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Company’s risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the relevant Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Company for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other obligations of the Company under this Agreement. If the Company is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Company within three Business Days after all Events of Default have been cured or waived.

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

(l) Issuing Bank Agreements. Each Issuing Bank agrees that, unless otherwise requested by the Administrative Agent, such Issuing Bank shall report in writing to the Administrative Agent (i) on the first Business Day of each week, the daily activity (set forth by day) in respect of its Letters of Credit during the immediately preceding week, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements (it being understood and agreed that no such reports shall be required at any time during which such Issuing Bank does not have Letters of Credit outstanding hereunder), (ii) on or prior to each Business Day on which such Issuing Bank expects to issue, amend, renew or extend any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the aggregate face amount of the Letters of Credit to be issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension occurred (and whether the amount thereof changed), it being understood that such Issuing Bank shall not permit any issuance, renewal, extension or amendment resulting in an increase in the amount of any Letter of Credit to occur without first obtaining written confirmation from the Administrative Agent that is then permitted under this Agreement, (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date of such LC Disbursement and the amount of such LC Disbursement, (iv) on any Business Day on which the Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount and currency of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) [Intentionally Omitted.]

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

SECTION 2.10. Repayment of Loans; Evidence of Debt. (a) Each Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan made to such Borrower on the Maturity Date in the currency of such Loan and (ii) in the case of the Company, to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the first date after such Swingline Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made, the Company shall repay all Swingline Loans then outstanding.

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

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

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

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

SECTION 2.11. Prepayment of Loans.

(a) Any Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with the provisions of this Section 2.11(a). The applicable Borrower, or the Company on behalf of the applicable Borrower, shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurocurrency Revolving Borrowing, not later than 11:00 a.m., Local Time, three (3) Business Days (in the case of a Eurocurrency Borrowing denominated in Dollars) or four (4) Business Days (in the case of a Eurocurrency Borrowing denominated in a Foreign Currency), in each case, before the date of prepayment, (ii) in the case of prepayment of an ABR Borrowing, not later than 11:00 a.m., New York City time, one Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Revolving Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16.

(b) If at any time, (i) other than as a result of fluctuations in currency exchange rates, the sum of the aggregate principal Dollar Amount of all of the Revolving Credit Exposures (calculated, with respect to those Credit Events denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event) exceeds the Aggregate Commitment (as reduced pursuant to Section 2.09) or (ii) solely as a result of fluctuations in currency exchange rates, (x) the sum of the aggregate principal Dollar Amount of all of the Revolving Credit Exposures (so calculated) denominated in Foreign Currencies, as of the most recent Computation Date with respect to each such Credit Event, exceeds 105% of the Foreign Currency Sublimit or (y) the sum of the aggregate principal Dollar Amount of all of the outstanding Revolving Loans made to Foreign Subsidiary Borrowers as of the most recent Computation Date with respect to each such Credit Event, exceeds 105% of the Foreign Borrower Sublimit, in each case the Borrowers shall immediately repay Borrowings or cash collateralize LC Exposure in an account with the Administrative Agent pursuant to Section 2.06(j), as applicable, in an aggregate principal amount sufficient to eliminate any such excess.

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

(b) The Company agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurocurrency Loans on the average daily Dollar Amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the relevant Issuing Bank for its own account a fronting fee, which shall accrue at a rate per annum separately agreed upon between the Company and the relevant Issuing Bank on the average daily Dollar Amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to Letters of Credit issued by such Issuing Bank during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third (3rd) Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within ten (10) days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). Participation fees and fronting fees in respect of Letters of Credit denominated in Dollars shall be paid in Dollars, and participation fees and fronting fees in respect of Letters of Credit denominated in a Foreign Currency shall be paid in such Foreign Currency.

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

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

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

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

(c) [Intentionally Omitted.]

(d) [Intentionally Omitted.]

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

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

(g) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest (i) computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) for Borrowings denominated in Pounds Sterling shall be computed on the basis of a year of 365 days, and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. Alternate Rate of Interest.

(a) If at the time that the Administrative Agent shall seek to determine the LIBOR Screen Rate on the Quotation Day for any Interest Period for a Eurocurrency Borrowing, the LIBOR Screen Rate shall not be available for such Interest Period and/or for the applicable currency with respect to such Eurocurrency Borrowing for any reason, and the Administrative Agent shall reasonably determine that it is not possible to determine the Interpolated Rate (which conclusion shall be conclusive and binding absent manifest error), then the Reference Bank Rate shall be the LIBO Rate for such Interest Period for such Eurocurrency Borrowing; provided that if the Reference Bank Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, however, that if less than two (2) Reference Banks shall supply a rate to the Administrative Agent for purposes of determining the LIBO Rate for such Eurocurrency Borrowing, (i) if such Borrowing shall be requested in Dollars, then such Borrowing shall be made as an ABR Borrowing at the Alternate Base Rate and (ii) if such Borrowing shall be requested in any Foreign Currency, the LIBO Rate shall be equal to the cost to each Lender to fund its pro rata share of such Eurocurrency Borrowing (from whatever source and using whatever methodologies as such Lender may select in its reasonable discretion, such rate, the “COF Rate”).

(b) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing:

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

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

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

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

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

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

(iii) subject the Administrative Agent, any Lender or any Issuing Bank to any Taxes (other than (A) Indemnified Taxes, (B) Excluded Taxes and (C) Other Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to the Administrative Agent or such Lender of making or maintaining any Loan or of maintaining its obligation to make any such Loan or to increase the cost to the Administrative Agent, such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by the Administrative Agent, such Lender or such Issuing Bank hereunder, whether of principal, interest or otherwise, then the applicable Borrower will pay to the Administrative Agent, such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate the Administrative Agent, such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

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

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

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

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

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

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

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

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

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

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

(g) Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes or Other Taxes attributable to such Lender (but only to the extent that the Borrowers have not already indemnified the Administrative Agent for such Indemnified Taxes or Other Taxes and without limiting the obligation of the Borrowers to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (g).

(h) If a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Company and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Company or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Company or the Administrative Agent as may be necessary for the Company and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this paragraph (h), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

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

(a) Each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to (i) in the case of payments denominated in Dollars, 12:00 noon, New York City time and (ii) in the case of payments denominated in a Foreign Currency, 12:00 noon, Local Time, in the city of the Administrative Agent's Eurocurrency Payment Office for such currency, in each case on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made (i) in the same currency in which the applicable Credit Event was made (or where such currency has been converted to euro, in euro) and (ii) to the Administrative Agent at its offices at 10 South Dearborn Street, Chicago, Illinois 60603 or, in the case of a Credit Event denominated in a Foreign Currency, the Administrative Agent's Eurocurrency Payment Office for such currency, except payments to be made directly to an Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments denominated in the same currency received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Notwithstanding the foregoing provisions of this Section, if, after the making of any Credit Event in any Foreign Currency, currency control or exchange regulations are imposed in the country which issues such currency with the result that the type of currency in which the Credit Event was made (the "Original Currency") no longer exists or any Borrower is not able to make payment to the Administrative Agent for the account of the Lenders in such Original Currency, then all payments to be made by such Borrower hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of repayment) of such payment due, it being the intention of the parties hereto that the Borrowers take all risks of the imposition of any such currency control or exchange regulations.

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

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

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

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07 (b), 2.18(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender and for the benefit of the Administrative Agent, the Swingline Lender or the Issuing Banks to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

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

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

SECTION 2.20. Expansion Option. The Company may from time to time elect to increase the Commitments or enter into one or more tranches of term loans (each an “Incremental Term Loan”), in each case, in minimum increments of \$5,000,000 so long as, after giving effect thereto, the aggregate amount of such increases and all such Incremental Term Loans does not exceed \$25,000,000. The Company may arrange for any such increase or tranche to be provided by one or more Lenders (each Lender so agreeing to an increase in its Commitment or to participate in such Incremental Term Loans, an “Increasing Lender”), or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an “Augmenting Lender”; provided that no Ineligible Institution may be an Augmenting Lender), to increase their existing Commitments, or to participate in such Incremental Term Loans, or extend Commitments, as the case may be; provided that (i) each Augmenting Lender, shall be subject to the approval of the Company and the Administrative Agent and (ii) (x) in the case of an Increasing Lender, the Company and such Increasing Lender execute an agreement substantially in the form of Exhibit C hereto, and (y) in the case of an Augmenting Lender, the Company and such Augmenting Lender execute an agreement substantially in the form of Exhibit D hereto. No consent of any Lender (other than the Lenders participating in the increase or any Incremental Term Loan) shall be required for any increase in Commitments and or Incremental Term Loan pursuant to this Section 2.20. Increases and new Commitments and Incremental Term Loans created pursuant to this Section 2.20 shall become effective on the date agreed by the Company, the Administrative Agent and the relevant Increasing Lenders or Augmenting Lenders, and the Administrative Agent shall notify each Lender thereof. Notwithstanding the foregoing, no increase in the Commitments (or in the Commitment of any Lender) or tranche of Incremental Term Loans shall become effective under this paragraph unless, (i) on the proposed date of the effectiveness of such increase or Incremental Term Loans, (A) the conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied or waived by the Required Lenders and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer of the Company and (B) the Company shall be in compliance (on a Pro Forma Basis reasonably acceptable to the Administrative Agent) with the covenants contained in Section 6.11 and (ii) the Administrative Agent shall have received documents consistent with those delivered on the Effective Date as to the organizational power and authority of the Borrowers to borrow hereunder after giving effect to such increase. On the effective date of any increase in the Commitments or any Incremental Term Loans being made, (i) each relevant Increasing Lender and Augmenting Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase and the use of such amounts to make payments to such other Lenders, each Lender’s portion of the outstanding Revolving Loans of all the Lenders to equal its Applicable Percentage of such outstanding Revolving Loans, and (ii) except in the case of any Incremental Term Loans, the Borrowers shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods if applicable, specified in a notice delivered by the applicable Borrower, or the Company on behalf of the applicable Borrower, in accordance with the requirements of Section 2.03). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence shall be accompanied by payment of all accrued interest on the amount prepaid and, in respect of each Eurocurrency Loan, shall be subject to indemnification by the Borrowers pursuant to the provisions of Section 2.16 if the deemed payment occurs other than on the last day of the related Interest Periods. The Incremental Term Loans (a) shall rank pari passu in right of payment with the Revolving Loans, (b) shall not mature earlier than the Maturity Date (but may have amortization prior to such date) and (c) shall be treated substantially the same as (and in any event no more favorably than) the Revolving Loans; provided that (i) the terms and conditions applicable to any tranche of Incremental Term Loans maturing after the Maturity Date may provide for material additional or different financial or other covenants or prepayment requirements applicable only during periods after the Maturity Date and (ii) the Incremental Term Loans may be priced differently than the Revolving Loans. Incremental Term Loans may be made hereunder pursuant to an amendment or restatement (an “Incremental Term Loan Amendment”) of this Agreement and, as appropriate, the other Loan Documents, executed by the Borrowers, each Increasing Lender participating in such tranche, each Augmenting Lender participating in such tranche, if any, and the Administrative Agent. The Incremental Term Loan Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate in the reasonable opinion of the Administrative Agent, to effect the provisions of this Section 2.20. Nothing contained in this Section 2.20 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder, or provide Incremental Term Loans, at any time.

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

SECTION 2.22. Judgment Currency. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from any Borrower hereunder in the currency expressed to be payable herein (the “specified currency”) into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent’s main New York City office on the Business Day preceding that on which final, non–appealable judgment is given. The obligations of each Borrower in respect of any sum due to any Lender or the Administrative Agent hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender or the Administrative Agent, as the case may be, in the specified currency, each Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent, as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Lender or the Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.18, such Lender or the Administrative Agent, as the case may be, agrees to remit such excess to such Borrower.

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

SECTION 2.24. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

- (a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.12

(b) the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that, except as otherwise provided in Section 9.02, this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;

(c) if any Swingline Exposure or LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent (A) the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure does not exceed the total of all non-Defaulting Lenders' Commitments, (B) each non-Defaulting Lender's Revolving Credit Exposure does not exceed such non-Defaulting Lender's Commitment and (C) no Event of Default has occurred and is continuing;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Company shall within one (1) Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize for the benefit of the Issuing Banks only the Company's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Company cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Company shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Banks or any other Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Company in accordance with Section 2.24(c), and participating interests in any such newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.24(c)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to a Parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (ii) the Swingline Lender or any Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Swingline Lender shall not be required to fund any Swingline Loan and such Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the Swingline Lender or such Issuing Bank, as the case may be, shall have entered into arrangements with the Company or such Lender, satisfactory to the Swingline Lender or such Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Company, the Swingline Lender and the Issuing Banks each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

ARTICLE III

Representations and Warranties

Each Borrower represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers; Subsidiaries. Each of the Company and its Subsidiaries is duly organized, validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing (to the extent such concept is applicable) in, every jurisdiction where such qualification is required. Schedule 3.01 hereto (as supplemented from time to time) identifies each Subsidiary, if such Subsidiary is a Material Subsidiary, the jurisdiction of its incorporation or organization, as the case may be, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by the Company and the other Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests of each Subsidiary are validly issued and outstanding and fully paid and nonassessable and all such shares and other equity interests indicated on Schedule 3.01 (as supplemented from time to time but, in the case of any Subsidiary, as permitted by Section 6.09) as owned by the Company or another Subsidiary are owned, beneficially and of record, by the Company or any Subsidiary free and clear of all Liens, other than Liens created under the Loan Documents. Except as set forth in Schedule 3.01 (as supplemented from time to time but, in the case of any Subsidiary, as permitted by Section 6.09), there are no outstanding commitments or other obligations of the Company or any Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of the Company or any Subsidiary.

SECTION 3.02. Authorization; Enforceability. The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, shareholder action. The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

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

SECTION 3.04. Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended October 28, 2012 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 28, 2013, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Since October 28, 2012, there has been no material adverse change in the business, assets, operations or condition, financial or otherwise, of the Company and its Subsidiaries, taken as a whole.

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

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

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

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

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

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

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

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

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

SECTION 3.11. Disclosure. The Company has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

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

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

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

SECTION 3.15. Security Interest in Collateral . The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral covered thereby in favor of the Collateral Agent, for the benefit of the Holders of Secured Obligations, and (i) when all appropriate filings, recordings, registrations, stampings or notifications are made and (ii) upon the taking of possession or control by the Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control, such Liens shall constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Collateral Agent pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title) to the extent the Collateral Agent has not obtained or does not maintain possession of such Collateral.

SECTION 3.16. Anti-Corruption Laws and Sanctions . The Company has implemented and maintains in effect policies and procedures designed to ensure compliance in all material respects by the Company, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Company, its Subsidiaries and their respective officers and employees and to the knowledge of the Company its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Company, any Subsidiary or to the knowledge of the Company or such Subsidiary any of their respective directors, officers or employees, or (b) to the knowledge of the Company, any agent of the Company or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or other Transactions will violate Anti-Corruption Laws or applicable Sanctions.

ARTICLE IV

Conditions

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

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

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

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the initial Loan Parties, the authorization of the Transactions and any other legal matters relating to such Loan Parties, the Loan Documents or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit E.

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

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

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

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

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

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

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

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

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

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

(a) Copies, certified by the Secretary or Assistant Secretary of such Subsidiary, of its Board of Directors' resolutions (and resolutions of other bodies, if any are deemed necessary by counsel for the Administrative Agent) approving the Borrowing Subsidiary Agreement and any other Loan Documents to which such Subsidiary is becoming a party and such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and, if applicable, good standing of such Subsidiary ;

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

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

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

ARTICLE V

Affirmative Covenants

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

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

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

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

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Company (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.11 and (iii) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) within 75 days of the commencement of each fiscal year of the Company, projected consolidated balance sheets, income statements and cash flow statements of the Company and its consolidated Subsidiaries for such fiscal year;

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

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

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

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

(a) the occurrence of any Default;

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

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

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

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

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

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

SECTION 5.05. Maintenance of Properties; Insurance.

(a) The Company will, and will cause each of its Subsidiaries to, (i) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (ii) maintain with financially sound and reputable carriers (1) insurance in such amounts (with no greater risk retention) and against such risks (including loss or damage by fire and loss in transit; theft, burglary, pilferage, larceny, embezzlement, and other criminal activities; business interruption; and general liability) and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (2) all insurance required pursuant to the Collateral Documents. The Company will furnish to the Lenders, upon request of the Collateral Agent, information in reasonable detail as to the insurance so maintained.

(b) The Company shall deliver to the Collateral Agent endorsements (x) to all "All Risk" physical damage insurance policies on the Loan Parties' tangible personal property and assets located in the United States of America and business interruption insurance policies naming the Collateral Agent as lender loss payee, and (y) to all general liability and other liability policies naming the Collateral Agent an additional insured. Each policy for liability insurance shall provide for all losses to be paid on behalf of the Collateral Agent and the Company or its Subsidiaries as their interests may appear. In the event the Company or any of its Subsidiaries at any time or times hereafter shall fail to obtain or maintain any of the policies or insurance required herein or to pay any premium in whole or in part relating thereto, then the Collateral Agent, without waiving or releasing any obligations or resulting Default hereunder, may at any time or times thereafter (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which the Collateral Agent deems advisable. All sums so disbursed by the Collateral Agent shall constitute part of the Secured Obligations, payable as provided in this Agreement. The Company will furnish to the Collateral Agent prompt written notice of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or interest therein under power of eminent domain or by condemnation or similar proceeding.

(c) So long as no Event of Default shall have occurred and be continuing, all insurance payments received by the Collateral Agent in connection with any loss, damage or destruction of any property of the Company or any of its Subsidiaries will be released by the Collateral Agent to the applicable Company or such Subsidiary for the repair, replacement or restoration thereof.

SECTION 5.06. Books and Records; Inspection Rights. The Company will, and will cause each of its Subsidiaries to, keep proper books of record and account in which entries that are full, true and correct in all material respects are made of all dealings and transactions in relation to its business and activities. The Company will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its relevant books and records, including environmental assessment reports and Phase I or Phase II studies, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested. The Company acknowledges that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain reports pertaining to the Company and its Subsidiaries' assets for internal use by the Administrative Agent and the Lenders.

SECTION 5.07. Compliance with Laws and Material Contractual Obligations. The Company will, and will cause each of its Subsidiaries to, (i) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform in all material respects its obligations under material agreements to which it is a party, in each case except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Company will maintain in effect and enforce policies and procedures designed to ensure compliance in all material respects by the Company, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

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

SECTION 5.09. Subsidiary Guarantors; Pledges; Additional Collateral; Further Assurances

(a) As promptly as possible but in any event within forty-five (45) days (or such later date as may be agreed upon by the Administrative Agent) after any Person becomes a Subsidiary or any Subsidiary qualifies independently as, or is designated by the Company or the Administrative Agent as, a Subsidiary Guarantor pursuant to the definition of "Subsidiary Guarantor", the Company shall provide the Administrative Agent with written notice thereof setting forth information in reasonable detail describing the earnings and material assets of such Person and shall cause each such Subsidiary which also qualifies as a Subsidiary Guarantor to deliver to the Administrative Agent a joinder to the Subsidiary Guaranty and the Security Agreement (in each case in the form contemplated thereby) pursuant to which such Subsidiary agrees to be bound by the terms and provisions of thereof, such Subsidiary Guaranty to be accompanied by appropriate corporate resolutions, other corporate documentation and legal and joinder opinions in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(b) The Company will cause, and will cause each other Subsidiary qualifying as a Loan Party to cause, within the time periods set forth below with respect to real property, all of its owned property (whether real, personal, tangible, intangible, or mixed) to be subject at all times to first priority and perfected (subject in each case to the qualifications specified in Section 3.15 with respect to priority and perfection) Liens in favor of the Collateral Agent for the benefit of the Holders of Secured Obligations to secure the Secured Obligations in accordance with the terms and conditions of the Collateral Documents (including amendments, restatements, supplements or other modifications to the Collateral Documents in effect prior to the Effective Date, in each case to the extent, and within such time period, as is reasonably requested by the Collateral Agent), subject in any case to Liens permitted by Section 6.02. Without limiting the generality of the foregoing, the Company (i) will cause the Applicable Pledge Percentage of the issued and outstanding Equity Interests of each Pledge Subsidiary directly owned by the Company or any other Subsidiary qualifying as a Loan Party to be subject at all times to a first priority and perfected (subject in each case to the qualifications specified in Section 3.15 with respect to priority and perfection) Lien in favor of the Collateral Agent to secure the Secured Obligations in accordance with the terms and conditions of the Collateral Documents; provided that no such pledge of the Equity Interests of, or provision of Collateral by, a Foreign Subsidiary shall be required hereunder to the extent such pledge or Collateral would create a Deemed Dividend Problem, is prohibited by applicable law or the Collateral Agent and its counsel reasonably determine that, in light of the cost and expense associated therewith, such pledge or Collateral would be unduly burdensome or not provide material Pledged Equity or Collateral for the benefit of the Holders of Secured Obligations pursuant to legally binding, valid and enforceable Pledge Agreements, and (ii) will, and will cause each other Subsidiary qualifying as a Loan Party to, deliver amendments, restatements, supplements or other modifications to the Mortgages, Mortgage Instruments and foreign law governed Pledge Agreements existing on the Effective Date, in each case to the extent, and within such time period as is, reasonably required by the Collateral Agent. Notwithstanding the foregoing, no new foreign law governed Pledge Agreements, Mortgages and Mortgage Instruments, and no amendments, restatements, supplements or other modifications to Mortgages, Mortgage Instruments and foreign law governed Pledge Agreements existing on the Effective Date, in each case are required to be delivered hereunder until the date that is sixty (60) days after the Effective Date or such later date as the Collateral Agent may agree in the exercise of its reasonable discretion with respect thereto.

(c) Without limiting the foregoing, the Company will, and will cause each Subsidiary to, execute and deliver, or cause to be executed and delivered, to the Collateral Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings, Mortgages, Mortgage Instruments, deeds of trust and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by law or which the Collateral Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Company.

(d) If any real property or improvements thereto or any interests therein are acquired by a Loan Party after the Effective Date (other than assets already constituting Collateral under the Security Agreement or any Mortgage), the Company will notify the Collateral Agent thereof, and, if requested by the Collateral Agent, the Company will cause such assets to be subjected to a Lien securing the Secured Obligations and will take, and cause the other Loan Parties to take, such actions as shall be necessary or reasonably requested by the Collateral Agent to grant and perfect such Liens, including actions described in paragraph (c) of this Section, all at the expense of the Company.

SECTION 5.10. Depository Banks. The Company and each Subsidiary will maintain one or more of the Lenders (or their subsidiaries or affiliates) as its principal depository bank for the bank accounts it maintains in the United States of America and the United Kingdom, including for the maintenance of operating, administrative, cash management, collection activity, and other deposit accounts for the conduct of its business, in each case so long as the Lenders or their subsidiaries or affiliates provide the applicable depository services in the applicable jurisdiction. In the event that any Lender ceases to be a Lender hereunder, the Company and its applicable Subsidiaries shall have 30 days, or such longer period as may be agreed by the Collateral Agent in its reasonable discretion, to move its accounts to one or more of the other Lenders (or their subsidiaries or affiliates) so long as the Lenders or their subsidiaries or affiliates provide the applicable depository services in the applicable jurisdiction.

ARTICLE VI

Negative Covenants

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

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

(a) the Secured Obligations and any other Indebtedness created under the Loan Documents;

(b) subject to the limitations applicable to Purchase Money Indebtedness set forth in clause (e) below, Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness with Indebtedness of a similar type that does not increase the outstanding principal amount thereof;

(c) Indebtedness of (i) any Loan Party to any other Loan Party, (ii) any Subsidiary to any Loan Party, (iii) any Subsidiary that is not a Loan Party to any other Subsidiary that is not a Loan Party and (iv) subject to Section 6.04(d), any Loan Party to any Subsidiary that is not a Loan Party;

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

(e) Indebtedness of the Company or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (collectively, "Purchase Money Indebtedness"); provided that (i) such Purchase Money Indebtedness is (or, in the case of any extension, renewal or replacement, originally was) incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate outstanding principal amount of Purchase Money Indebtedness permitted by this clause (e), when aggregated with the aggregate outstanding principal amount of Purchase Money Indebtedness permitted under Section 6.01(b) and other Purchase Money Indebtedness outstanding on the Effective Date, shall not exceed \$125,000,000 at any time outstanding;

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

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

(h) (i) Indebtedness of the Company or any Subsidiary under any Swap Agreement otherwise permitted under Section 6.05, (ii) the Guarantee of any Loan Party of any such Indebtedness and (iii) the Guarantee of any Loan Party of the obligations of PSMC, PKL or any of their respective subsidiaries under any Swap Agreement entered into in the ordinary course of business and, solely with respect to PSMC and its subsidiaries, so long as PSMC is a Subsidiary of the Company;

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

(j) obligations of the Company or any Subsidiary arising out of interest rate, foreign currency, and commodity hedging agreements entered into with financial institutions in connection with bona fide hedging activities in the ordinary course of business and not for speculative purposes;

(k) unsecured Indebtedness in an aggregate principal amount not exceeding \$20,000,000 at any time outstanding;

(l) Permitted Unsecured Indebtedness of the Company; and

(m) Indebtedness securing a Lien permitted under Section 6.02(c).

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

(a) Permitted Encumbrances, Liens created under any Loan Document and Liens granted by any Foreign Subsidiary (including the Taiwan JV) to the Company or any other Subsidiary;

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

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

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

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

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

(g) Liens on assets (not constituting Collateral) of the Company and its Subsidiaries not otherwise permitted above so long as the aggregate principal amount of the Indebtedness and other obligations subject to such Liens does not at any time exceed \$2,500,000.

SECTION 6.03. Fundamental Changes and Asset Sales. (a) The Company will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) any of its assets, (including pursuant to a Sale and Leaseback Transaction), or all or any of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Person may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Subsidiary may merge into a Loan Party in a transaction in which the surviving entity is such Loan Party (provided that any such merger involving the Company must result in the Company as the surviving entity), (iii) any Loan Party (other than the Company) or any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to, or otherwise dissolve into, a Loan Party and (iv) the Company and its Subsidiaries may (A) sell inventory, used or surplus equipment and Permitted Investments in the ordinary course of business and real estate located in Dresden, Germany not currently used in the operation of the Company's business, (B) effect sales, trade-ins or dispositions of used equipment for value in the ordinary course of business consistent with past practice, (C) enter into licenses of technology in the ordinary course of business. (D) enter into the Taiwan JV Transactions and (E) make any other sales, transfers, leases or dispositions of assets with an aggregate book value that, together with the aggregate book value of all other assets of the Company and its Subsidiaries previously leased, sold or disposed of as permitted by this clause (E) (1) during any fiscal year of the Company, does not exceed 7.5% of Consolidated Total Assets and (2) during the term of this Agreement, does not exceed 25% of Consolidated Total Assets (in the case of each of the foregoing clauses (1) and (2), as reflected in the most recent consolidated balance sheet of the Company delivered to the Lenders), (v) the Company and its Subsidiaries may consummate the PSMC Acquisition and (vi) any Subsidiary (other than a Foreign Subsidiary Borrower or a Material Subsidiary) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders; provided that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04.

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

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

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

(a) Permitted Investments;

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

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

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

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

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

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

(h) Permitted Acquisitions;

(i) Investments, loans and advances existing on the date hereof and set forth in Schedule 6.04 and extensions, renewals and replacements of any such investments, loans or advances with investments, loans or advances of a similar type that do not increase the outstanding amount thereof;

(j) investments by the Company or any Subsidiary made solely in the form of Equity Interests of the Company or any Subsidiary (including the investment by the Company in the form of Equity Interests of PSMC in the Taiwan JV);

(k) investments, loans and advances by the Company or any Subsidiary in the Taiwan JV or any other Joint Venture in an aggregate outstanding amount not to exceed \$50,000,000 (provided that the outstanding amount of any investment, loan or advance made in reliance on this clause (k) shall be reduced by any amount paid, repaid, returned, distributed or otherwise received in cash by the Company or such Subsidiary in respect of such investment, loan or advance) so long as immediately prior to and after giving effect (including giving effect on a Pro Forma Basis) to any such investment, loan or advance, the Company shall be in compliance with the covenants contained in Section 6.11;

(l) the PSMC Acquisition and the Taiwan JV Transactions; and

(m) any other investment (other than acquisitions), loan or advance (including investments made to meet minimum capital requirements of foreign jurisdictions) so long as the aggregate amount of all such investments, loans and advances during any fiscal year of the Company does not exceed \$25,000,000.

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

SECTION 6.06. Restricted Payments. (a) The Company will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (i) the Company may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (iii) the Company may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management or employees of the Company and its Subsidiaries, (iv) PSMC may make dividends to its shareholders, (v) the Company or any other Subsidiary may make any other Restricted Payment so long as (1) no Default or Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect (including pro forma effect) thereto and (2) the aggregate amount of such Restricted Payments made by the Company or any Subsidiary does not exceed \$20,000,000 during any fiscal year of the Company and (vi) the Company may enter into, exercise its rights and perform its obligations under Permitted Call Spread Swap Agreements.

(b) The Company will not, and will not permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except: (i) payment of Indebtedness created under the Loan Documents; (ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness (subject to any subordination provisions thereof); (iii) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness; (iv) prepayment of any Permitted Unsecured Indebtedness from the proceeds of any other Permitted Unsecured Indebtedness (including premiums and fees associated therewith); (v) prepayment, purchase, redemption, retirement or other acquisition of any Permitted Unsecured Indebtedness by exchange for or out of the proceeds received from a substantially concurrent issue of (1) new shares of its non-mandatorily redeemable Equity Interests pursuant to the conversion terms (if any) described in the agreements related to such Permitted Unsecured Indebtedness or (2) Subordinated Indebtedness or other Permitted Unsecured Indebtedness; (vi) the Company may issue Equity Interests or make cash payments in connection with or as part of the conversion, redemption, retirement, prepayment or cancellation of the any Permitted Convertible Notes; (vii) prepayment of the Aera Tool Lease and the EBM Tool Lease set forth on Schedule 6.01; and (viii) prepayment, purchase, redemption, retirement or other acquisitions of the Existing Convertible Notes so long as, at the time thereof and after giving effect thereto (including on a Pro Forma Basis), Liquidity shall not be less than \$50,000,000.

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

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

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

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

SECTION 6.11. Financial Covenants .

(a) Minimum Interest Coverage Ratio . The Company will not permit the ratio (the “ Interest Coverage Ratio ”), determined as of the end of each of its fiscal quarters set forth below, of (i) Consolidated EBITDA less Capital Expenditures to (ii) Consolidated Interest Expense, in each case for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Company and its Subsidiaries on a consolidated basis, to be less than the ratio set forth opposite such fiscal quarter:

<u>Fiscal Quarter Ending On or About</u>	<u>Minimum Interest Coverage Ratio</u>
January 31, 2014	1.75 to 1.00
April 30, 2014	1.75 to 1.00
July 31, 2014	1.75 to 1.00
October 31, 2014	2.00 to 1.00
January 31, 2015	2.25 to 1.00
April 30, 2015 and each fiscal quarter ending thereafter	2.50 to 1.00

(b) Total Leverage Ratio . The Company will not permit the ratio (the “ Total Leverage Ratio ”), determined as of the end of each of its fiscal quarters ending on or about, or after, January 31, 2014, of (i) Consolidated Total Indebtedness to (ii) Consolidated EBITDA, in each case for the period of 4 consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Company and its Subsidiaries on a consolidated basis, to be greater than 2.50 to 1.00.

(c) Minimum Unrestricted Cash Balances. The Company will not permit the aggregate amount of unrestricted and unencumbered cash balances and Permitted Investments maintained by the Company and its Subsidiaries (collectively, “Liquidity”) to be less than \$50,000,000. Furthermore, and in addition to the foregoing, at all times during any six-month period immediately prior to (x) any date on which the holders of any Permitted Unsecured Indebtedness have the option to require the Company to repurchase such securities and (y) the maturity date of any Permitted Unsecured Indebtedness, in each case the Company will not permit Liquidity to be less than \$50,000,000 on a Pro Forma Basis after giving effect to the repayment or conversion of such Permitted Unsecured Indebtedness. For the avoidance of doubt, any cash deposited with the Collateral Agent pursuant to the terms of the Collateral Documents shall be deemed to be unrestricted or unencumbered cash.

SECTION 6.12. Anti-Corruption Laws and Sanctions. No Borrower will request any Borrowing or Letter of Credit, and no Borrower shall use, and the Company shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

ARTICLE VII

Events of Default

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

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

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

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

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

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

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

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to (x) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (y) any redemption, repurchase, conversion or settlement with respect to any Permitted Convertible Notes pursuant to their terms unless such redemption, repurchase, conversion or settlement results from a default thereunder or an event of the type that constitutes an Event of Default or (z) any early payment requirement or unwinding or termination with respect to any Permitted Call Spread Swap Agreement;

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

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

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

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

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

(m) a Change in Control shall occur; or

(n) any Collateral Document shall for any reason fail to create a valid and perfected first priority security interest in any material portion of the Collateral purported to be covered thereby, except as permitted by the terms of any Loan Document;

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

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

Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent may exercise any rights and remedies provided to the Collateral Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII

The Administrative Agent and the Collateral Agent

Each of the Lenders and each of the Issuing Banks hereby irrevocably appoints JPMorgan Chase Bank, N.A. as Administrative Agent and Collateral Agent hereunder and under each other Loan Document, and each of the Lenders and each of the Issuing Banks authorizes each of the Agents to take such actions on its behalf and to exercise such powers as are delegated to the Agents by the terms hereof and the terms of the other Loan Documents, together with such actions and powers as are reasonably incidental thereto.

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

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

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

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

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

Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and letters of credit and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon either Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon either Agent or any other Lender and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Company and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a lender or assign or otherwise transfer its rights, interests and obligations hereunder.

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

In its capacity, the Collateral Agent is a “representative” of the Holders of Secured Obligations within the meaning of the term “secured party” as defined in the New York Uniform Commercial Code. Each Lender authorizes the Collateral Agent to enter into each of the Collateral Documents to which it is a party and to take all action contemplated by such documents. Each Lender agrees that no Holder of Secured Obligations (other than the Collateral Agent) shall have the right individually to seek to realize upon the security granted by any Collateral Document, it being understood and agreed that such rights and remedies may be exercised solely by the Collateral Agent for the benefit of the Holders of Secured Obligations upon the terms of the Collateral Documents. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, the Collateral Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Holders of Secured Obligations any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Collateral Agent on behalf of the Holders of Secured Obligations. The Lenders hereby authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Collateral (i) as described in Section 9.02(b); (ii) as permitted by, but only in accordance with, the terms of the applicable Loan Document; or (iii) if approved, authorized or ratified in writing by the Required Lenders, unless such release is required to be approved by all of the Lenders hereunder. Upon request by the Collateral Agent at any time, the Lenders will confirm in writing the Collateral Agent’s authority to release particular types or items of Collateral pursuant hereto. Upon any sale or transfer of assets constituting Collateral which is permitted pursuant to the terms of any Loan Document, or consented to in writing by the Required Lenders or all of the Lenders, as applicable, and upon at least five Business Days’ prior written request by the Company to the Collateral Agent, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Holders of Secured Obligations herein or pursuant hereto upon the Collateral that was sold or transferred; provided, however, that (i) the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent’s opinion, would expose the Collateral Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Secured Obligations or any Liens upon (or obligations of the Company or any Subsidiary in respect of) all interests retained by the Company or any Subsidiary, including (without limitation) the proceeds of the sale, all of which shall continue to constitute part of the Collateral.

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

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

The parties hereto acknowledge and agree for the purposes of taking and ensuring the continuing validity of German law governed pledges (*Pfandrechte*) with the creation of parallel debt obligations of the Borrowers as will be further described in a separate German law governed parallel debt undertaking. The Collateral Agent shall (i) hold such parallel debt undertaking as fiduciary agent (*Treuhaender*) and (ii) administer and hold as fiduciary agent (*Treuhaender*) any pledge created under a German law governed Collateral Document which is created in favor of any Holder of the Secured Obligations or transferred to any Holder of the Secured Obligations due to its accessory nature (*Akzessorietaet*), in each case in its own name and for the account of the Holders of the Secured Obligations. Each Lender, on its own behalf and on behalf of its affiliated Holders of Secured Obligations, hereby authorizes the Collateral Agent to enter as its agent in its name and on its behalf into any German law governed Collateral Document, to accept as its agent in its name and on its behalf any pledge under such Collateral Document and to agree to and execute as agent its in its name and on its behalf any amendments, supplements and other alterations to any such Collateral Document and to release any such Collateral Document and any pledge created under any such Collateral Document in accordance with the provisions herein and/or the provisions in any such Collateral Document.

ARTICLE IX

Miscellaneous

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

(i) if to any Borrower, to it c/o Photonics, Inc., 15 Secor Road, Brookfield, Connecticut 06804, Attention of Sean T. Smith (Telecopy No. (203) 775-5601; Telephone No. (203) 740-5671), with a copy (in the case of notices of Default) to Attention of Richelle Burr, Esq. (Telecopy No. (203) 775-5601; Telephone No. (203) 740-5285);

(ii) if to the Administrative Agent or Collateral Agent, (A) in the case of Borrowings denominated in Dollars, to JPMorgan Chase Bank, N.A., 10 South Dearborn Street, 7th Floor, Chicago, Illinois 60603, Attention of Darren Cunningham (Telecopy No. (888) 292-9533) and (B) in the case of Borrowings in Foreign Currencies, to J.P. Morgan Europe Limited, 25 Bank Street, Canary Wharf, London E14 5JP, Attention of The Manager, Loan & Agency Services (Telecopy No. 44 207 777 2360), and in each case with a copy to JPMorgan Chase Bank, N.A., 270 Park Avenue, 43rd Floor, New York, New York 10017, Attention of Justin Burton (Telecopy No. (212) 622-8998);

(iii) if to an Issuing Bank, to it at (ii) JPMorgan Chase Bank N.A., Sarjapur Outer Ring Rd, Vathur Hobli, Floor 04, Bangalore, 560 087, India, Attention Ajay Prabhu (Telecopy No. (+91-80) 66762387), or in the case of any other Issuing Bank, to it at the address and telecopy number specified from time to time by such Issuing Bank to the Borrower and the Administrative Agent;

(iv) if to the Swingline Lender, to it at JPMorgan Chase Bank, N.A., 10 South Dearborn Street, 7th Floor, Chicago, Illinois 60603, Attention of Darren Cunningham (Telecopy No. (888) 292-9533)); and

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

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through Electronic Systems, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

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

Unless any Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

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

(d) Electronic Systems.

(i) The Company agrees that the Agents may, but shall not be obligated to, make Communications (as defined below) available to the Issuing Banks and the Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

(ii) Any Electronic System used by the Agents is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or any Electronic System. In no event shall either Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to any Loan Party, any Lender, any Issuing Bank or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party’s or any Agent’s transmission of Communications through an Electronic System. “Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by any Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through an Electronic System.

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

(b) Except as provided in Section 2.20 with respect to an Incremental Term Loan Amendment, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change Section 2.18(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that, solely with the consent of the parties prescribed by Section 2.20 to be parties to an Incremental Term Loan Amendment, Incremental Term Loans may be included in the determination of Required Lenders on substantially the same basis as the Commitments and the Revolving Loans are included on the Effective Date), or (vi) release the Company or all or substantially all of the Subsidiary Guarantors from their obligations under Article X or the Subsidiary Guaranty or release all or substantially all of the Collateral, as applicable, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Agent, any Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, the Collateral Agent, such Issuing Bank or the Swingline Lender, as the case may be. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be directly affected by such amendment, waiver or other modification.

(c) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrowers to each relevant Loan Document (x) to add one or more credit facilities (in addition to the Incremental Term Loans pursuant to an Incremental Term Loan Amendment) to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans, Incremental Term Loans and the accrued interest and fees in respect thereof and (y) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Lenders.

(d) The Lenders hereby irrevocably authorize the Collateral Agent, at its option and in its sole discretion, to release any Liens granted to the Collateral Agent by the Loan Parties on any Collateral (i) upon the termination of all the Commitments, payment and satisfaction in full in cash of all Secured Obligations, and the cash collateralization of all LC Exposure in a manner satisfactory to the Administrative Agent, (ii) constituting property being sold or disposed of if the Company certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property leased to the Company or any Subsidiary under a lease which has expired or been terminated in a transaction permitted under this Agreement, or (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Agents and the Lenders pursuant to Article VII. Any such release shall not in any manner discharge, affect, or impair the Secured Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. In addition to the foregoing, the Lenders hereby consent to (i) the release of, and hereby authorize the Collateral Agent to release, the pledge of Equity Interests of PSMC solely for purposes of consummating the PSMC Acquisition so long as, not later than ten (10) Business Days after consummation of the PSMC Acquisition (or such later date as the Administrative Agent agrees in its reasonable discretion), the Company causes the Applicable Pledge Percentage of the issued and outstanding Equity Interests of PAMC (in the case of consummation of the Cash Option (as defined in the definition of PSMC Acquisition)) or PSMC (in the case of consummation of the Merger Option (as defined in the definition of PSMC Acquisition)) to be subject to a first priority and perfected Lien in favor of the Collateral Agent to secure the Secured Obligations, pursuant to documentation reasonably satisfactory to the Collateral Agent and (ii) the release of, and hereby authorize the Collateral Agent to release, the pledge of Equity Interests of the Taiwan JV solely for purposes of consummating the Taiwan JV Transactions so long as, not later than ten (10) Business Days after consummation of the applicable Taiwan JV Transactions (or such later date as the Administrative Agent agrees in its reasonable discretion), the Company causes the Applicable Pledge Percentage of the issued and outstanding Equity Interests of the applicable Subsidiary that owns the Equity Interests in the Taiwan JV to be subject to a first priority and perfected Lien in favor of the Collateral Agent to secure the Secured Obligations, pursuant to documentation reasonably satisfactory to the Collateral Agent.

(e) Notwithstanding anything to the contrary herein the Administrative Agent may, with the consent of the Company only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

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

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

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

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

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

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

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

(A) the Company (provided that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof), provided that no consent of the Company shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee; and

(B) the Administrative Agent.

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

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

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

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

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

For the purposes of this Section 9.04(b), the terms "Approved Fund" and "Ineligible Institution" have the following meanings:

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

"Ineligible Institution" means (a) a natural person, (b) a Defaulting Lender, (c) the Company, any of its Subsidiaries or any of its Affiliates, or (d) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative (s) thereof.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

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

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

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

(ii) A Participant (x) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section and (y) shall not be entitled to receive any greater payment under Section 2.15 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company’s prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Company, to comply with Section 2.17(e) as though it were a Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of each Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “ Participant Register ”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

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

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

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

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

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Borrower against any of and all the obligations of such Borrower now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

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

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

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

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Each Foreign Subsidiary Borrower irrevocably designates and appoints the Company, as its authorized agent, to accept and acknowledge on its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal or New York State court sitting in New York City. The Company hereby represents, warrants and confirms that the Company has agreed to accept such appointment (and any similar appointment by a Subsidiary Guarantor which is a Foreign Subsidiary). Said designation and appointment shall be irrevocable by each such Foreign Subsidiary Borrower until all Loans, all reimbursement obligations, interest thereon and all other amounts payable by such Foreign Subsidiary Borrower hereunder and under the other Loan Documents shall have been paid in full in accordance with the provisions hereof and thereof and such Foreign Subsidiary Borrower shall have been terminated as a Borrower hereunder pursuant to Section 2.23. Each Foreign Subsidiary Borrower hereby consents to process being served in any suit, action or proceeding of the nature referred to in Section 9.09(b) in any federal or New York State court sitting in New York City by service of process upon the Company as provided in this Section 9.09(d); provided that, to the extent lawful and possible, notice of said service upon such agent shall be mailed by registered or certified air mail, postage prepaid, return receipt requested, to the Company and (if applicable to) such Foreign Subsidiary Borrower at its address set forth in the Borrowing Subsidiary Agreement to which it is a party or to any other address of which such Foreign Subsidiary Borrower shall have given written notice to the Administrative Agent (with a copy thereof to the Company). Each Foreign Subsidiary Borrower irrevocably waives, to the fullest extent permitted by law, all claim of error by reason of any such service in such manner and agrees that such service shall be deemed in every respect effective service of process upon such Foreign Subsidiary Borrower in any such suit, action or proceeding and shall, to the fullest extent permitted by law, be taken and held to be valid and personal service upon and personal delivery to such Foreign Subsidiary Borrower. To the extent any Foreign Subsidiary Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution of a judgment, execution or otherwise), each Foreign Subsidiary Borrower hereby irrevocably waives such immunity in respect of its obligations under the Loan Documents. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

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

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

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

SECTION 9.13. USA PATRIOT Act. Each Lender that is subject to the requirements of the Patriot Act hereby notifies each Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies such Borrower, which information includes the name and address of such Borrower and other information that will allow such Lender to identify such Borrower in accordance with the Patriot Act.

SECTION 9.14. Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Collateral Agent and the Holders of Secured Obligations, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. Should any Lender (other than the Collateral Agent) obtain possession of any such Collateral, such Lender shall notify the Collateral Agent thereof, and, promptly upon the Collateral Agent's request therefor shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent's instructions.

SECTION 9.15. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.16. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Company acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Lenders are arm's-length commercial transactions between the Company and its Affiliates, on the one hand, and the Lenders and their Affiliates, on the other hand, (B) the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Company is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Lenders and their Affiliates is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Company or any of its Affiliates, or any other Person and (B) no Lender or any of its Affiliates has any obligation to the Company or any of its Affiliates with respect to the transactions contemplated hereby except, in the case of a Lender, those obligations expressly set forth herein and in the other Loan Documents; and (iii) each of the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and its Affiliates, and no Lender or any of its Affiliates has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Company hereby waives and releases any claims that it may have against each of the Lenders and their Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 9.17. Releases of Subsidiary Guarantors.

(a) A Subsidiary Guarantor shall automatically be released from its obligations under the Subsidiary Guaranty upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Guarantor ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. In connection with any termination or release pursuant to this Section, the Administrative Agent shall (and is hereby irrevocably authorized by each Lender to) execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(b) At such time as the principal and interest on the Loans, all LC Disbursements, the fees, expenses and other amounts payable under the Loan Documents and the other Secured Obligations (other than Swap Obligations, Banking Services Obligations, and other Obligations expressly stated to survive such payment and termination) shall have been paid in full in cash, the Commitments shall have been terminated and no Letters of Credit shall be outstanding, the Subsidiary Guaranty and all obligations (other than those expressly stated to survive such termination) of each Subsidiary Guarantor thereunder shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.

ARTICLE X

Company Guarantee

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

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

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

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

The Company further agrees that its obligations hereunder shall constitute a continuing and irrevocable guarantee of all Secured Obligations now or hereafter existing and shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Secured Obligation (including a payment effected through exercise of a right of setoff) is rescinded, or is or must otherwise be restored or returned by either Agent, any Issuing Bank or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise (including pursuant to any settlement entered into by a Secured Party in its discretion).

In furtherance of the foregoing and not in limitation of any other right which either Agent, any Issuing Bank or any Lender may have at law or in equity against any Borrower by virtue hereof, upon the failure of any other Borrower to pay any Secured Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, the Company hereby promises to and will, upon receipt of written demand by either Agent, any Issuing Bank or any Lender, forthwith pay, or cause to be paid, to the relevant Agent, the relevant Issuing Bank or any Lender in cash an amount equal to the unpaid principal amount of such Secured Obligations then due, together with accrued and unpaid interest thereon. The Company further agrees that if payment in respect of any Secured Obligation shall be due in a currency other than Dollars and/or at a place of payment other than New York or any other Eurocurrency Payment Office and if, by reason of any Change in Law, disruption of currency or foreign exchange markets, war or civil disturbance or other event, payment of such Secured Obligation in such currency or at such place of payment shall be impossible or, in the reasonable judgment of either Agent, any Issuing Bank or any Lender, disadvantageous to the relevant Agent, the relevant Issuing Bank or any Lender in any material respect, then, at the election of the relevant Agent, the Company shall make payment of such Secured Obligation in Dollars (based upon the applicable Equivalent Amount in effect on the date of payment) and/or in New York or such other Eurocurrency Payment Office as is designated by the Administrative Agent and, as a separate and independent obligation, shall indemnify the Agents, any Issuing Bank and any Lender against any losses or reasonable out-of-pocket expenses that it shall sustain as a result of such alternative payment.

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

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

The Company hereby absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under the Subsidiary Guaranty in respect of Specified Swap Obligations (provided, however, that the Company shall only be liable under this paragraph for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this paragraph or otherwise under this Article X voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The Company intends that this paragraph constitute, and this paragraph shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each other Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

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

PHOTRONICS, INC., as the Company

By _____
Name:
Title:

Signature Page to Third Amended and Restated Credit Agreement
Photronics, Inc.

JPMORGAN CHASE BANK, N.A., individually as a Lender, as
Swingline Lender, as an Issuing Bank, as Collateral Agent and as
Administrative Agent

By _____
Name:
Title:

Signature Page to Third Amended and Restated Credit Agreement
Photronics, Inc.

RBS CITIZENS, NATIONAL ASSOCIATION, individually as a
Lender, as an Issuing Bank and as Syndication Agent

By _____
Name:
Title:

Signature Page to Third Amended and Restated Credit Agreement
Photronics, Inc.

TD BANK, N.A., as a Lender

By _____

Name:

Title:

Signature Page to Third Amended and Restated Credit Agreement
Photronics, Inc.

SCHEDULE 2.01

COMMITMENTS

<u>LENDER</u>	<u>COMMITMENT</u>
JPMORGAN CHASE BANK, N.A.	\$ 16,666,666.68
RBS CITIZENS, NATIONAL ASSOCIATION	\$ 16,666,666.66
TD BANK, N.A.	\$ 16,666,666.66
AGGREGATE COMMITMENT	\$ 50,000,000.00

SUBSIDIARIES OF PHOTRONICS, INC.

	State or Jurisdiction of Incorporation or Organization
Align-Rite International, Ltd.	(United Kingdom)
Photronics (Wales) Limited	(United Kingdom)
Photronics Taiwan Holding Company	(Arizona, USA)
Photronics, B.V.	(Netherlands)
Photronics California, Inc.	(California, USA)
Photronics Idaho, Inc.	(Idaho, USA)
Photronics Texas Allen, Inc.	(Texas, USA)
Photronics MZD, GmbH	(Germany)
Photronics Advanced Mask Corporation	(Taiwan, R.O.C.)
Photronics Semiconductor Mask Corporation (1)	(Taiwan, R.O.C.)
Photronics Switzerland, S.a.r.L	(Switzerland)
Photronics Singapore Pte, Ltd.	(Singapore)
Photronics UK, Ltd.	(United Kingdom)
PK, Ltd. (2)	(Korea)
PKLT	(Taiwan, R.O.C.)
Trianja Technologies, Inc.	(Texas, USA)

Note: Entities directly owned by subsidiaries of Photronics, Inc. are indented and listed below their immediate parent. Ownership is 100% unless otherwise indicated.

(1) 98.63% owned by Photronics, Inc.

(2) 79.98% owned by Photronics, Inc., and 19.71% owned by Photronics Singapore Pte Ltd.

EXHIBIT 23**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-160235 and 333-161857 on Form S-3 and Registration Statement Nos. 333-169296, 333-169295, 333-02245, 333-42010, 333-50809, 333-86846, 333-78102 and 333-151763 on Form S-8 of our reports dated January 3, 2014, relating to the consolidated financial statements and financial statement schedule of Photronics, Inc. and subsidiaries and the effectiveness of Photronics, Inc. and its subsidiaries' internal control over financial reporting appearing in this Annual Report on Form 10-K of Photronics, Inc. and its subsidiaries for the year ended November 3, 2013.

/s/Deloitte & Touche LLP

**Hartford, Connecticut
January 3, 2014**

EXHIBIT 31.1

I, Constantine S. Macricostas, certify that:

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

/s/ CONSTANTINE S. MACRICOSTAS

Constantine S. Macricostas
Chief Executive Officer
January 3, 2014

EXHIBIT 31.2

I, Sean T. Smith, certify that:

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

/s/ SEAN T. SMITH

Sean T. Smith
Chief Financial Officer
January 3, 2014

EXHIBIT 32.1**Section 1350 Certification of the Chief Executive Officer**

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

- (1) the Annual Report on Form 10-K of the Company for the year ended November 3, 2013 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CONSTANTINE S. MACRICOSTAS

Constantine S. Macricostas
Chief Executive Officer
January 3, 2014

EXHIBIT 32.2**Section 1350 Certification of the Chief Financial Officer**

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

- (1) the Annual Report on Form 10-K of the Company for the year ended November 3, 2013 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ SEAN T. SMITH

Sean T. Smith
Chief Financial Officer
January 3, 2014
