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

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): January 30, 2009**

**ASTRONICS CORPORATION**

(Exact name of registrant as specified in its charter)

**New York**

(State or other Jurisdiction of  
Incorporation)

**0-7087**

(Commission File Number)

**16-0959303**

(IRS Employer Identification No.)

**130 Commerce Way  
East Aurora, New York**

(Address of Principal Executive Offices)

**14052**

(Zip Code)

Registrant's telephone number, including area code: **(716) 805-1599**

**N/A**

(Former name or former address if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement.****Item 2.01 Completion of Acquisition or Disposition of Assets.****Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.****Item 3.02 Unregistered Sales of Equity Securities.**

Astronics Corporation (the "Company") completed the acquisition of 100% of the common stock of D M E Corporation (the "Acquisition"), which it had announced yesterday. Pursuant to the Stock Purchase Agreement (the "Purchase Agreement") among the Company and the shareholders of D M E Corporation, the purchase price was approximately \$51 million, comprised of approximately \$45 million, 500,000 shares of the Company's common stock (the "Shares") previously held as treasury shares, valued at \$3.6 million, or \$7.17 per share, plus an additional \$2 million subject to meeting revenue performance criteria in 2009 (the "Contingent Payment"). The Acquisition was consummated on January 30, 2009. DME Corporation is a provider of weapons and communications test equipment, training and simulation devices and aviation safety solutions.

A portion of the purchase price was funded by the issuance to the shareholders of D M E Corporation of the Company's 6.0% subordinated promissory notes due 2014 in the aggregate principal amount of \$5 million. To evidence its obligations related to the Contingent Payment, the Company also issued 6.0% subordinated contingent promissory notes due 2014 in the aggregate principal amount of \$2 million. Payment under the contingent promissory notes is due only upon satisfaction of certain revenue performance criteria for 2009.

The Shares were issued to the shareholders of D M E Corporation on January 30, 2009. The issuance of the Shares was exempt from registration with the U.S. Securities and Exchange Commission pursuant to the exemption from such registration under Section 4(2) of the Securities Act of 1933, as amended, for a sale not involving a public offering. The Company has no obligation to file a registration statement with respect to the Shares.

In connection with the funding of the Acquisition, the Company amended its existing \$60 million credit facility by entering into an \$85 million Amended and Restated Credit Agreement (the "Credit Agreement"), dated as of January 30, 2009, with HSBC Bank USA, National Association, Bank of America, N.A. and KeyBank National Association. The Credit Agreement provides for a five-year, \$40 million senior secured term loan with interest at LIBOR plus between 2.25% and 3.50%. The proceeds of the term loan were used to finance the Acquisition. The Credit Agreement also provides for a revolving credit line of \$45 million, of which approximately \$30 million is currently available for working capital requirements and is committed for three years through January 2012, with interest at LIBOR plus between 2.25% and 3.50%. In addition, the Company is required to pay a commitment fee of between 0.300% and 0.500% on the unused portion of the total credit commitment for the preceding quarter, based on the Company's leverage ratio under the Credit Agreement. The credit facility allocates up to \$20 million of the \$45 million revolving credit line for the issuance of letters of credit, including certain existing letters of credit.

The Company's obligations under the Credit Agreement are jointly and severally guaranteed by Astronics Advanced Electronic Systems Corp., Luminescent Systems, Inc. and D M E Corporation, each a wholly-owned domestic subsidiary of the Company. The obligations are secured by a first priority lien on substantially all of the Company's and the guarantors' assets.

In the event of voluntary or involuntary bankruptcy of the Company (each an "Event of Default" as defined in the Credit Agreement), all unpaid principal and any other amounts due under the Credit Agreement automatically become due and payable without presentation, demand or notice of any kind to the Company. Other Events of Default, including failure to make payments as they become due, give the Agent (as defined in the Credit Agreement) the option to declare all unpaid principal and any other amounts then due immediately due and payable.

A copy of the Purchase Agreement is filed as Exhibit 10.1 to this Current Report on Form 8-K.

A copy of the Credit Agreement is filed as Exhibit 10.2 to this Current Report on Form 8-K.

The above description does not purport to be complete and is qualified in its entirety by reference to the Purchase Agreement and the Credit Agreement, which are filed as Exhibit 10.1 and Exhibit 10.2, respectively, to this Current Report on Form 8-K.

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**Item 9.01 Financial Statements and Exhibits.**

(a) *Financial Statements of Businesses Acquired.*

The financial statements required to be filed as part of this Current Report will be filed pursuant to an amendment to this Current Report not later than 71 days after this Current Report is required to be filed.

(b) *Pro Forma Financial Information.*

The pro forma financial information required to be filed as part of this Current Report will be filed pursuant to an amendment to this Current Report not later than 71 days after this Current Report is required to be filed.

(d) *Exhibits.*

<b>Exhibit Number</b>	<b>Description</b>
10.1	Stock Purchase Agreement dated January 28, 2009 among Astronics Corporation and the shareholders named therein
10.2	Amended and Restated Credit Agreement dated January 30, 2009 among Astronics Corporation, HSBC Bank USA, National Association, Bank of America, N.A. and KeyBank National Association

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**SIGNATURES**

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

**ASTRONICS CORPORATION**

Date: January 30, 2009

By: /s/ David C. Burney

David C. Burney  
Vice President Finance,  
Chief Financial Officer

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**EXHIBIT INDEX**

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**STOCK PURCHASE AGREEMENT**

**By and Among**

**ASTRONICS CORPORATION,**

**D M E CORPORATION**

**and**

**THE SHAREHOLDERS OF D M E CORPORATION  
SIGNATORY HERETO**

**Dated as of January 28, 2009**

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**EXHIBITS**

Exhibit	Description
A	Form of Promissory Note
B	Form of Contingent Promissory Note

## STOCK PURCHASE AGREEMENT

**THIS STOCK PURCHASE AGREEMENT** (this "*Agreement*") dated as of January 28, 2009 by and between **ASTRONICS CORPORATION**, a New York corporation ("*Purchaser*"), **D M E CORPORATION**, a Florida corporation (the "*Company*"), and the shareholders of the Company signatory hereto (such shareholders are sometimes hereinafter referred to individually as a "*Shareholder*" and, collectively as the "*Shareholders*").

### W I T N E S S E T H:

**WHEREAS**, the Shareholders own an aggregate of 26,693 shares of the common stock of the Company (the "*Shares*"), representing all of the issued and outstanding shares of capital stock of the Company;

**WHEREAS**, the Company is engaged in the development, design, manufacture and distribution of (i) weapons and communications test systems, (ii) training and simulation devices, (iii) aviation safety products and (iv) airport lighting products, and offers complementary services to its customers (the "*Business*"); and

**WHEREAS**, the Shareholders desire to sell, and the Purchaser desires to purchase, the Shares pursuant to this Agreement; and

**WHEREAS**, it is the intention of the parties hereto that, upon consummation of the transactions contemplated by this Agreement, the Purchaser shall own all of the issued and outstanding shares of capital stock and all equity and voting interest in the Company.

**NOW, THEREFORE, IT IS AGREED:**

### ARTICLE I DEFINITIONS

**Section 1.1 Defined Terms.** When used in this Agreement, the following terms shall have the respective meanings specified below.

**"Accounts Payable"** means all bona fide accounts payable of the Company (exclusive of any accounts payable to Affiliates of the Company, Accrued Liabilities and Indebtedness) as of the Closing Date. Schedule 1.1(a) sets forth the Accounts Payable as of the date hereof, which Schedule shall be updated by the Company in accordance with Section 5.12 as of a date within two (2) Business Days prior to the Closing.

**"Accounts Receivable"** means all bona fide accounts receivable of the Company (exclusive of any accounts receivable attributable to Affiliates of the Company). Schedule 1.1(b) sets forth the Accounts Receivable as of the date hereof, which Schedule shall be updated by the Company in accordance with Section 5.12 as of a date within two (2) Business Days prior to the Closing.

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**“Accrued Liabilities”** means all accrued expenses of the Company (exclusive of Accounts Payable and Indebtedness) of a type shown on the Financial Statements. Schedule 1.1(c) sets forth the Accrued Liabilities as of the date hereof, which Schedule shall be updated by the Company in accordance with Section 5.12 as of a date within two (2) Business Days prior to the Closing.

**“Affiliate”** means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided that, for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise and provided, further, that an Affiliate of any Person shall also include (i) any Person that directly or indirectly owns more than five percent (5%) of any class of capital stock or other equity interest of such Person, (ii) any officer, director, trustee or beneficiary of such Person, (iii) any spouse, parent, sibling or descendant of any Person described in clauses (i) or (ii) above, and (iv) any trust for the benefit of any Person described in clauses (i) through (iii) above or for any spouse, issue or lineal descendant of any Person described in clauses (i) through (iii) above.

**“Agreed Claims”** has the meaning assigned in Section 8.3(c).

**“Agreement”** has the meaning assigned in the Preamble.

**“Authorized Stock”** has the meaning assigned in Section 3.5.

**“Balance Sheet Date”** has the meaning assigned in Section 3.7(a).

**“Books and Records”** means originals or true copies of all operating data and records of the Company including, without limitation, financial, accounting and bookkeeping books and records, purchase and sale orders and invoices, sales and sales promotional data, advertising materials, marketing analyses, past and present price lists, past and present customer service files, credit files, warranty files, batch and product serial number records and files, written operating methods and procedures, specifications, operating records and other information related to the Company’s assets, properties and rights, reference catalogues, insurance files, personnel records, records relating to potential acquisitions and other records, on whatever media, pertaining to the Company or its business or operations, or to customers or suppliers of, or any other parties having contracts or other business relationships with, the Company.

**“Business”** has the meaning assigned in the Recitals.

**“Business Day”** means any day, other than a Saturday, Sunday or a day on which banks are permitted or required by law to be closed in the State of New York.

**“Certificate”** has the meaning assigned in Section 8.3(a).

**“Closing”** has the meaning assigned in Section 2.4.

**“Closing Date”** has the meaning assigned in Section 2.4.

**“Closing Payment”** has the meaning assigned in Section 2.2.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time and the rules and regulations promulgated thereunder. Section references to the Code are to the Code as in effect at the date of this Agreement.

**“Company”** has the meaning assigned in the Preambles.

**“Confidential Information”** means any information (other than information which is generally available to the public, other than as a result of a breach by any Person with any confidentiality obligation to the Company) concerning the organization, business or finances of the Company or of any third party which the Company is currently under an obligation to keep confidential or that is currently maintained by the Company as confidential, including, without limitation, confidential or secret processes, products, technology, know-how, merchandising and advertising programs and plans, suppliers, services, techniques, customers and plans with respect to the Company.

**“Contingent Promissory Notes”** has the meaning assigned in Section 2.2.

**“Contracts”** means the agreements and commitments, whether written or oral, which are currently in effect and to which the Company is a party or by which the Company or its assets or properties are bound, including, without limitation, all contracts, agreements and commitments:

(i) which contain restrictions with respect to payment of dividends or any other distribution in respect of the capital stock or other equity interests of the Company;

(ii) relating to capital expenditures or other purchases of material, supplies, equipment or other assets or properties (other than purchase orders for inventory or supplies in the ordinary course of business) in excess of \$50,000 individually, or \$200,000 in the aggregate;

(iii) involving a loan (other than accounts receivable from trade debtors in the ordinary course of business) or advance to (other than travel and entertainment allowances to the employees of the Company extended in the ordinary course of business), or investment in, any Person or relating to the making of any such loan, advance or investment;

(iv) involving Indebtedness;

(v) under which any Person (other than the Company) has directly or indirectly guaranteed Indebtedness;

- (vi) granting or evidencing a Lien on any properties or assets of the Company;
- (vii) providing for any management, consulting, financial advisory or any other similar service;
- (viii) limiting the ability of the Company to engage in any line of business or to compete with any Person;
- (ix) (including letters of intent) involving the future disposition or acquisition of assets or properties, or any merger, consolidation or similar business combination transaction, whether or not enforceable;
- (x) involving any joint venture, partnership, strategic alliance, shareholders' agreement, co-marketing, co-promotion, co-packaging, joint development or similar arrangements;
- (xi) involving any resolution or settlement of any actual or threatened litigation, arbitration, claim or other dispute;
- (xii) involving a confidentiality, standstill or similar arrangement;
- (xiii) involving leases or subleases of personal property to which the Company is a party (as lessee or lessor) and involving an annual base rental payment in excess of \$50,000;
- (xiv) all Contracts involving the payment or receipt by the Company of \$200,000 or more which are not cancelable by the Company without penalty on thirty (30) days' or less notice; and
- (xv) all other Contracts that are material to the business of the Company.

***“Current Real Property”*** means the real property and improvements thereon leased by the Company commonly known as (i) 12889 Ingenuity Drive, Orlando, Florida 32826, (ii) 6830 Northwest 16<sup>th</sup> Terrace, Fort Lauderdale, Florida 33309, (iii) 603 Richard B. Russell Parkway, Suite C-1, Houston County, Georgia, (iv) 1216 Dawson Road, Suite 107, Albany, Georgia 31707, and (v) 1293 N. State Road 426, Unit 117, Oviedo, Florida 32765.

***“Deductible Amount”*** has the meaning assigned in Section 8.2(d).

***“Effective Time”*** has the meaning assigned in Section 2.4.

***“Employee”*** has the meaning assigned in Section 3.22(a).

***“Employee Plans”*** has the meaning assigned in Section 3.23(a).

**“Environmental Law”** means any Law, Order or other requirement of law, including any principle of common law, relating to the protection of human health or the environment, or to the manufacture, use, transport, treatment, storage, disposal, release or threatened release of petroleum products, asbestos, urea formaldehyde insulation, polychlorinated biphenyls or any substance listed, classified or regulated as hazardous or toxic, or any similar term, under such Environmental Law.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder. Section references to ERISA are to ERISA as in effect at the date of this Agreement.

**“Financial Statements”** has the meaning assigned in Section 3.7(a).

**“GAAP”** means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and the pronouncements of the Financial Accounting Standards Board, which are in effect from time to time, consistently applied.

**“Government Contract”** means a Contract between the Company and a Governmental or Regulatory Authority, or a prime contractor or subcontractor thereof.

**“Governmental or Regulatory Authority”** means any instrumentality, subdivision, court, administrative agency, commission, official or other authority of the United States or any other country or any state, province, prefect, municipality, locality or other government or political subdivision thereof, or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority.

**“Indebtedness”** means, without duplication, (i) any obligations of the Company for borrowed money (including all obligations for principal, interest, premiums, penalties, fees, expenses and breakage costs) or indebtedness of the Company issued or incurred in substitution or exchange for obligations for borrowed money, (ii) any obligations of the Company evidenced by any note, bond, debenture or other debt security, (iii) any obligations of a Person other than the Company secured by a Lien against (A) the Company’s capital stock or (B) any right, title and interest in and to the business, properties, assets and rights of any kind, whether tangible or intangible, real or personal, and owned by the Company or in which the Company has any interest, (iv) any obligations of the Company under capital leases, (v) any obligations of the Company which would become due and owing under any employment, severance, bonus, commission, non-competition or similar agreement upon the execution of this Agreement or the consummation of the transactions contemplated hereby, (vi) any checks written on bank accounts of the Company prior to the Closing Date which have not cleared as of the Closing Date, and (vii) all obligations of the types described in clauses (i) through (vi) above of any Person other than the Company, the payment of which is guaranteed, directly or indirectly, by the Company. Indebtedness shall not, however, include (a) Accrued Liabilities, (b) Accounts Payable, (c) the endorsement of negotiable instruments for collection in the ordinary course of business, or (d) indebtedness incurred with respect to tax distributions to the Shareholders on income prior to the Closing Date in the amount of \$1,450,000, and (z) unliquidated progress payments received under Government Contracts.



**“Indemnified Party”** has the meaning assigned in Section 8.3(a).

**“Indemnifying Party”** has the meaning assigned in Section 8.3(a).

**“Intellectual Property”** shall mean all intellectual property used to conduct the Business including, without limitation, (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissues, continuations, continuations-in-part, revisions, extensions, and re-examinations thereof, (ii) all trademarks, service marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) all copyrightable works, all copyrights, and all applications, registrations and renewals in connection therewith, (iv) all mask works and all applications, registrations, and renewals in connection therewith, (v) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (vi) all computer software (including data and related documentation and including software installed on hard disk drives) other than off-the-shelf computer software subject to shrinkwrap or clickwrap licenses and (vii) all copies and tangible embodiments of any of the foregoing (in whatever form or medium).

**“Inventory”** means all raw material, work-in-process and finished goods inventory of the Company. Schedule 1.1(e) sets forth the Inventory as of the date hereof, which Schedule shall be updated by the Company in accordance with Section 5.12 as of a date within two (2) Business Days prior to the Closing.

**“Law”** means any statute, law, ordinance, rule or regulation of any Governmental or Regulatory Authority.

**“Leases”** means (i) the Agreement of Lease, dated June 30, 1993, by and between Welwyn Management Company (as assignee of Danis Properties Limited Partnership), as landlord, and the Company, as tenant, as renewed, assigned and amended, including by that certain First Amendment to Lease Agreement dated May 25, 2007 by and between AR3, Ltd., LLLP, as landlord and the Company, as tenant, with respect to the Current Real Property at 12889 Ingenuity Drive, Orlando, Florida 32826, (ii) the Lease Agreement commencing April 27, 2006 between Guaso, LLC, as landlord, and the Company, as tenant, with respect to the Current Real Property at 6830 Northwest 16<sup>th</sup> Terrace, Fort Lauderdale, Florida 33309, (iii) the Lease dated May 1, 2007 between Business Office Parks of America, as landlord, and the Company, as tenant, with respect to the Current Real Property at 603 Richard B. Russell Parkway, Suite C-1, Houston County, Georgia, (iv) the Lease dated July 29, 2008, between Trinity Investment Company, as landlord, and the Company, as tenant, with respect to the Current Real Property at 1216 Dawson Road, Suite 107, Albany, Georgia 31707, and (v) the Lease, dated June 19, 2008, between William F. Hayman, as landlord, and the Company, as tenant, with respect to the Current Real Property located at 1293 N. State Road 426, Unit 117, Oviedo, Florida 32765.

**“Liens”** means liens, security interests, options, rights of first refusal, claims, easements, mortgages, charges, indentures, deeds of trust, rights of way, restrictions on the use of real property, encroachments, licenses to third parties, leases to third parties, security agreements, or any other encumbrances and other restrictions or limitations on use of real or personal property or irregularities in title thereto.

**“Losses”** has the meaning assigned in Section 8.2(a).

**“Material,” “Material Adverse Change” or “Material Adverse Effect”** means, (i) when used with respect to the Company or the Business, any change or effect that is material and adverse to the Company or the Business, or (ii) when used with respect to the Purchaser, any materially adverse change in or effect on (including any material delay) the ability of the Purchaser to perform its obligations hereunder.

**“Order”** means any judgment, order, injunction, decree, writ, permit or license of any Governmental or Regulatory Authority or any arbitrator.

**“Permits”** means all permits, licenses, consents, franchises, approvals and other authorizations required from any Governmental or Regulatory Authority or other Person in connection with the operation of the Business and necessary to conduct the Business as presently conducted.

**“Person”** means and includes an individual, a partnership, a joint venture, a corporation, a limited liability company, a limited liability partnership, a trust, an incorporated organization and a Governmental or Regulatory Authority.

**“Proceeding”** means any claim, demand, action, suit, litigation, dispute, audit, inquiry, Order, writ, injunction, judgment, assessment, decree, grievance, arbitral action, investigation or other proceeding.

**“Promissory Notes”** has the meaning assigned in Section 2.2.

**“Purchaser”** has the meaning assigned in the Preambles.

**“Purchase Price”** has the meaning assigned in Section 2.2.

**“Purchaser Shares”** has the meaning assigned in Section 2.2.

**“Representative”** means any officer, director, manager, principal, attorney, accountant, agent, employee or other representative of any Person.

**“Section 338(h)(10) Election”** has the meaning assigned in Section 5.13.

**“Shareholders’ Representative”** has the meaning assigned in Section 10.13.

**“Shares”** has the meaning assigned in the Recitals.

**“Subsidiary”** means, with respect to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is owned by such Person directly or indirectly through one or more Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person, directly or indirectly, through one or more Subsidiaries of such Person, has more than a 50% equity interest or more than 50% of the voting control.

**“Tangible Personal Property”** means all of the tangible personal property (other than Inventory) owned or leased by the Company or in which the Company has any interest, including, without limitation, production and processing equipment, warehouse equipment, computer hardware, furniture and fixtures, tooling, transportation equipment, leasehold improvements, supplies and other tangible assets, together with any transferable manufacturer or vendor warranties related thereto.

**“Tax Return”** means any return, report, information return or other document (including any related or supporting information and, where applicable, profit and loss accounts and balance sheets) with respect to Taxes.

**“Taxes”** means all taxes, assessments, charges, duties, fees, levies or other governmental charges, including all U.S. and non-U.S. federal, state, local and other income, franchise, profits, capital gains, capital stock, transfer, sales, use, occupation, property, excise, severance, windfall profits, stamp, license, payroll, withholding and other taxes, assessments, charges, duties, fees, levies or other governmental charges of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a Tax Return), all estimated taxes, deficiency assessments, additions to tax, penalties and interest and shall include any liability for such amounts as a result either of being a member of a combined, consolidated, unitary or affiliated group or of a contractual obligation to indemnify any Person or other entity.

**“Transaction Costs”** means the fees, costs and expenses of the Company in connection with the transactions contemplated hereby, including, without limitation, the fees and expenses of its counsel and financial advisers.

**“Transaction Documents”** means this Agreement, the Promissory Notes, the Contingent Promissory Notes, certificates representing the Purchaser Shares and all other instruments and agreements to be executed and delivered hereunder and thereunder.

**“Warranty Obligations”** has the meaning assigned in [Section 5.10](#).

**Section 1.2 Construction.** In this Agreement, unless the context otherwise requires:

(a) any reference in this Agreement to “writing” or comparable expressions includes a reference to facsimile transmission or comparable means of communication;

(b) words expressed in the singular number shall include the plural and vice versa, words expressed in the masculine shall include the feminine and neuter gender and vice versa;

(c) references to Articles, Sections, Schedules and Recitals are references to articles, sections, schedules and recitals of this Agreement;

(d) reference to “day” or “days” are to calendar days;

(e) this “Agreement” or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated or supplemented; and

(f) “include,” “includes,” and “including” are deemed to be followed by “without limitation” whether or not they are in fact followed by such words or words of similar import.

**Section 1.3 Schedules and Exhibits.** The Schedules and Exhibits to this Agreement are incorporated into and form an integral part of this Agreement.

**Section 1.4 Knowledge.** Where any representation or warranty contained in this Agreement is expressly qualified by reference to the knowledge of the Company, it means the knowledge of Luis Mola, Brian Price, Diane Avidor and Ramon Rodriguez, after reasonable inquiry as to the matters that are the subject of such representations and warranties.

## ARTICLE II SALE OF SHARES

**Section 2.1 Sale of Shares.** On the terms, and subject to the conditions, set forth in this Agreement, the Shareholders agree to sell, assign, transfer and deliver to the Purchaser on the Closing Date, and the Purchaser agrees to purchase from the Shareholders on the Closing Date, the Shares. The certificates or other documentation representing the Shares held by each Shareholder shall be delivered to the Purchaser at the Closing, duly endorsed in blank, or accompanied by such other instruments of transfer as are reasonably acceptable to the Purchaser, in each case, with all necessary transfer tax and other revenue stamps, acquired at the Shareholders’ expense, affixed and canceled.

**Section 2.2 Consideration.** As the aggregate consideration for the Shares, the Purchaser shall pay and deliver to the Shareholders at the Closing (a) the sum of **FORTY MILLION DOLLARS (\$40,000,000)**, (b) promissory notes of the Purchaser payable to the Shareholders in the form of Exhibit A hereto in the aggregate principal amount of **FIVE MILLION DOLLARS (\$5,000,000)** (the "**Promissory Note**"), (c) contingent promissory notes of the Purchaser payable to the Shareholders in the form of Exhibit B hereto in the aggregate principal amount of **TWO MILLION DOLLARS (\$2,000,000)** (the "**Contingent Promissory Notes**") plus (d) **FIVE HUNDRED THOUSAND (500,000)** shares of the Purchaser's common stock, \$.01 par value per share (the "**Purchaser Shares**"), minus the sum of (x) the aggregate amount of the Indebtedness and (y) the aggregate amount of the unpaid Transaction Costs. At Closing the Purchaser shall:

(a) pay an amount equal to **FORTY MILLION DOLLARS (\$40,000,000)** minus the sum of the aggregate amount of the Indebtedness and the aggregate amount of the unpaid Transaction Costs (the "**Closing Payment**") by wire transfer of immediately available funds to an account identified to the Purchaser by the Shareholders' Representative at least two (2) days prior to the Closing, allocated to the Shareholders as set forth in Schedule 2.2;

(b) pay (i) the Indebtedness pursuant to the pay-off letters as required by Section 6.12 and (ii) the unpaid Transaction Costs;

(c) deliver the Promissory Notes and Contingent Promissory Notes to the Shareholders; and

(d) Deliver certificates representing the Purchaser Shares in the names and amounts as designated by the Shareholders' Representative.

The amounts described in clauses (a), (b), (c) and (d) above, as adjusted pursuant to Section 2.3, are, collectively, the "**Purchase Price**." The Purchase Price shall be allocated among the Shareholders in accordance with the percentage ownership of each Shareholder in the Company.

**Section 2.3 Reserved.**

**Section 2.4 Closing.** The closing of the sale and purchase of the Shares (the "**Closing**") shall take place following the satisfaction or waiver of all of the conditions set forth in Article VI and Article VII at 10:00 A.M. New York time on January 30, 2009 at such place as the parties hereto shall agree (the "**Closing Date**"). Notwithstanding the foregoing, the effective time of the Closing shall be deemed to have occurred at 12:01 a.m., New York time, on January 30, 2009 (the "**Effective Time**"), it being the intent of the parties that the business of the Company on the Closing Date shall be for the account of the Purchaser.

**ARTICLE III  
REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND THE SHAREHOLDERS**

The Company and the Shareholders, jointly and severally, represent and warrant to the Purchaser as follows:

**Section 3.1 Ownership of Shares.**

(a) Each Shareholder is the lawful owner, beneficially and of record of the shares of the Company's common stock set forth next to each Shareholder's name on Schedule 3.1, free and clear of all Liens. The Shareholders are, collectively, the lawful owners, beneficially and of record, of all of the Shares, free and clear of all Liens. The delivery to the Purchaser of the Shares pursuant to this Agreement will transfer to the Purchaser good and valid title to all of the issued and outstanding equity securities and voting interests of the Company, free and clear of all Liens.

(b) Each Shareholder (i) will acquire the Purchaser Shares for its own account without any view to the distribution thereof except in accordance with the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder and all applicable state securities or “blue sky” laws and other non-U.S. securities laws and (ii) acknowledges and agrees that the Purchaser Shares may be resold by such Shareholder only pursuant to an effective registration statement under the Securities Act of 1933, as amended and all applicable state securities and “blue sky” laws and other applicable non-U.S. securities laws or unless an exemption from such registration is available.

**Section 3.2 Existence and Good Standing.** The Company (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, and (ii) has all requisite power and authority to own its property and to carry on its business as now conducted. The Company is not and is not required to be qualified to do business as a foreign corporation in any jurisdiction, except for such jurisdictions where the failure to be so qualified would not have a Material Adverse Effect.

**Section 3.3 Authority and Enforceability.** Each Shareholder has the legal capacity and all necessary power and authority and has taken all action necessary to authorize, execute and deliver the Transaction Documents, to consummate the transactions contemplated thereby, and to perform his, her or its obligations under the Transaction Documents. No other action on the part of the Shareholders is required to authorize the execution and delivery of the Transaction Documents and to consummate the transactions contemplated thereby. The Transaction Documents, when delivered in accordance with the terms hereof and thereof, assuming the due execution and delivery of this Agreement and each such other document by the other parties hereto and thereto, shall have been duly executed and delivered by each Shareholder and shall be valid and binding obligations of each such Shareholder, enforceable against him in accordance with their respective terms, except to the extent that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally and to general equitable principles.

**Section 3.4 Consents and Approvals; No Violations.**

(a) The execution and delivery by each Shareholder of the Transaction Documents will not, and the consummation by each such Shareholder of the transactions contemplated thereby will not result in a violation or breach of, conflict with, constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, payment or acceleration) under, or result in the creation of any Lien on any of the properties or assets of the Company under: (i) any provision of the organizational documents of the Company; (ii) subject to obtaining and making any of the approvals, consents, notices and filings referred to in paragraph (b) below, any Law or Order applicable to such Shareholder or the Company or by which any of their respective properties or assets may be bound; or (iii) any of the terms, conditions or provisions of any Contract.

(b) Except as set forth in Schedule 3.4(b) and except for the fact that the Shares to be sold to the Purchaser hereunder have not been registered under the Securities Act of 1933, as amended or under any state securities law and may not be resold or transferred by the Purchaser except in compliance therewith, and no consent, approval or action of, filing with or notice to any Governmental or Regulatory Authority or other Person is necessary or required (i) under any of the terms, conditions or provisions of any Law or Order applicable to any Shareholder or the Company or by which any Shareholder or the Company or any of their respective assets or properties may be bound, (ii) under any of the terms, conditions or provisions of any Contract or (iii) for the execution and delivery of the Transaction Documents by the Shareholders or the performance by the Shareholders of their obligations thereunder or the consummation of the transactions contemplated thereby.

**Section 3.5 Capitalization.** The authorized capitalization of the Company consists of 100,000 shares of common stock, no par value per share (the “**Authorized Stock**”), of which only the Shares are issued and outstanding. All of the Shares have been duly authorized and validly issued, are fully paid and non-assessable and are not subject to, nor were they issued in violation of, any preemptive rights. Except as set forth in Schedule 3.5, no other equity securities of the Company are authorized, issued, outstanding or reserved for issuance. Except as set forth in Schedule 3.5, there are no outstanding or authorized options, warrants, rights, subscriptions, claims of any character, agreements, obligations, convertible or exchangeable securities, or other commitments contingent or otherwise, relating to the Authorized Stock or other equity or voting interest in the Company, pursuant to which the Company is or may become obligated to issue, deliver or sell or cause to be issued, delivered or sold, Authorized Stock or other equity or voting interest in, the Company or any securities convertible into, exchangeable for, or evidencing the right to subscribe for or acquire, any Authorized Stock or other equity or voting interest in, the Company. Except as set forth in Schedule 3.5, there are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights with respect to the Authorized Stock or other equity or voting interest in the Company. The Company does not have any authorized or outstanding bonds, debentures, notes or other Indebtedness, the holders of which have the right to vote (or convertible into, exchangeable for, or evidencing the right to subscribe for or acquire securities having the right to vote) with the shareholders of the Company on any matter. There are no agreements or commitments to which the Company is a party or by which it is bound to (i) repurchase, redeem or otherwise acquire any of its outstanding capital stock or other equity or voting interest in the Company or any other Person or (ii) vote or dispose of any of its outstanding capital stock or other equity or voting interest in, the Company. There are no irrevocable proxies and no voting agreements with respect to any of the Company’s outstanding capital stock or other equity or voting interest in the Company.

**Section 3.6 Subsidiaries and Investments.** The Company does not have any Subsidiaries. On the Closing Date, the Company does not own, directly or indirectly, any capital stock of, or other equity, ownership, proprietary or voting interest in, any Person.

### ***Section 3.7 Financial Statements.***

(a) The Company has furnished the Purchaser with (i) the audited balance sheets of the Company as of December 31, 2007 (the "***Balance Sheet Date***") and December 31, 2006, the related audited statements of income for the three (3) years ended December 31, 2007, 2006 and 2005, all audited by Ernst & Young LLC, and (ii) the unaudited balance sheet of the Company as at November 23, 2008 and the related unaudited statements of income for the eleven (11) months then ended (the unaudited balance sheet of the Company as at November 23, 2008, is hereinafter referred to as the "***Interim Balance Sheet***"). The financial statements referred to above, including the footnotes thereto (collectively, the "***Financial Statements***") have been prepared in accordance with GAAP, except, with respect to the Interim Balance Sheet and the related unaudited statements of income for the eleven (11) months ended November 23, 2008, for the absence of notes and normal year-end audit adjustments.

(b) The Financial Statements fairly present, in all material respects, (i) the financial condition of the Company at the dates thereof and (ii) the results of the Company's operations and cash flows and the changes in its financial condition for the periods presented.

***Section 3.8 Liabilities.*** The Company has no Material claims, obligations, liabilities or Indebtedness, whether absolute, accrued, contingent or otherwise, except for (i) claims, obligations, liabilities or Indebtedness set forth in the Financial Statements, or specifically disclosed in the footnotes thereto (ii) the Accrued Liabilities, (iii) the Accounts Payable, (iv) the Contracts, (v) liabilities and obligations incurred between December 31, 2007 and the Closing Date in the ordinary course of business of the Company (none of which results from, arises out of or relates to any breach of contract, breach of contractual warranty, tort, infringement or violation of law) and (vi) liabilities set forth in Schedule 3.8.

### ***Section 3.9 Tangible Personal Property.***

(a) Schedule 3.9(a) sets forth (i) a depreciation list of each item of Tangible Personal Property owned by the Company having a book value in excess of \$5,000 and (ii) a list of each item of Tangible Personal Property leased by the Company having an annual rental in excess of \$10,000. Except as set forth in Schedule 3.9(a), there is no Tangible Personal Property used in the operation of the Business other than the Tangible Personal Property reflected in the Balance Sheet or thereafter acquired, except for Tangible Personal Property disposed of in the ordinary course of business, consistent with past practice, since the Balance Sheet Date. Except as set forth in Schedule 3.9(a), all of the Tangible Personal Property is located at the Current Real Property and there is no Tangible Personal Property used by the Company in the operation of its business located at the Current Real Property which is not owned or leased by the Company. The Tangible Personal Property, taken as a whole, is in reasonable working order and adequate for its intended use, ordinary wear and tear and normal repairs and replacements excepted.

(b) Except as set forth in Schedule 3.9(b), the Company has good title to or, in the case of leased assets, a valid leasehold interest in, free and clear of all Liens, all of the Tangible Personal Property. The Company owns or has the exclusive right to use all of the Tangible Personal Property and assets necessary for the conduct of the Business as currently conducted.



**Section 3.10 Books and Records.** The Books and Records, as previously made available to the Purchaser and its Representatives, represent accurate records of all meetings of, and material action taken by (including action taken by written consent), the shareholders and directors of the Company in all material respects. All of the records, systems, controls, data or information of the Company, recorded, stored, maintained, operated or otherwise wholly or partly dependent on or held by any means (including all means of access thereto and therefrom) are under the exclusive ownership and direct control of the Company.

**Section 3.11 Owned Real Property.** The Company does not presently own. Schedule 3.11 sets forth a list of real property formerly owned by the Company.

**Section 3.12 Leased Real Property.** The Leases are the only leases, subleases or other agreements relating to the use or occupancy of real property to which the Company is a party or bound. The Company has a valid leasehold interests in the real property described in the Leases, free and clear of any and all Liens. Each Lease is in full force and effect; all rents and additional rents due to date on the Leases have been paid; the Company has been in peaceable possession since the commencement of the original term of the Leases and is not in default thereunder; no waiver, indulgence or postponement of the Company's obligations thereunder has been granted by the lessors; and , except as set forth on Schedule 3.4(b), there exists no default or event, occurrence, condition or act (including the transfer of the Shares) which, with the giving of notice, the lapse of time or the happening of any further event or condition, would reasonably be expected to become a default under any Lease. Except as set forth on Schedule 3.12, the Company has not violated and is not currently in violation of any of the terms or conditions under any Lease in any material respect, and, to the knowledge of the Company, all of the covenants to be performed by the lessor under the Leases have been fully performed.

**Section 3.13 Contracts.**

(a) Schedule 3.13 sets forth a true and complete list of all Contracts. Each Contract is in full force and effect and there exists no (i) default or event of default by the Company or, to the knowledge of the Company, any other party to any such Contract with respect to any material term or provision of any such Contract or (ii) event, occurrence, condition or act (including the consummation of the transactions contemplated hereby) which, with the giving of notice, the lapse of time or the happening of any other event or condition, would become a default or event of default by the Company or, to the knowledge of the Company, any other party thereto, with respect to any material term or provision of any such Contract. Except as set forth in Schedule 3.13, the Company is not a party to any Contract where the cost of completion of such Contract would be reasonably expected to exceed the balance of monies to be paid by a customer or other Person to the Company under such Contract.

(b) Except as set forth on Schedule 3.13, with respect to each Government Contract, (i) neither the United States government nor any prime contractor or subcontractor thereof or other Person has notified the Company in writing that the Company has breached or violated any Law, certification, representation, clause, provision or requirement pertaining to any such Government Contract in any material respect, (ii) the Company has not received any written notice of termination for convenience, notice of termination for default, cure notice or show cause notice pertaining to any such Government Contract, (iii) as of the date of this Agreement, other than in the ordinary course of business, to the knowledge of the Company, no cost incurred by the Company pertaining to any such Government Contract has been questioned or challenged, is the subject of any audit or investigation or has been disallowed by any Governmental or Regulatory Authority and (iv) as of the date of this Agreement, no payments due to the Company pertaining to any such Government Contract has been withheld or set off, nor has any written claim been made to withhold or set off money, and the Company is entitled to all payments received to date with respect thereto.

(c) Except as set forth on Schedule 3.13, to the knowledge of the Company, (i) neither the Company nor any director, officer, employee, consultant or other Representative of the Company is, or since January 1, 2004 has been, under administrative, civil or criminal investigation, indictment or information by any Governmental or Regulatory Authority or under any audit or investigation by the Company with respect to any alleged act or omission arising under or relating to any Government Contract, offer or bid and (ii) the Company has made no voluntary disclosure with respect to any alleged irregularity, mischarging, misstatement or omission arising under or related to any Government Contract, offer or bid that has led or would be reasonably likely to lead, either before or after the Closing Date, to any of the consequences set forth in clauses (i) or (ii) above or any other damage, penalty assessment, recoupment or payment or disallowance of cost.

(d) Neither the Company nor any director, officer or employee of the Company has been suspended, debarred or, to the knowledge of the Company, proposed for disbarment from participation in the award of any Government Contract, offer or bid with the United States government or any other Governmental or Regulatory Authority (excluding for this purpose ineligibility to bid on certain Government Contracts due to generally applicable bidding requirements). To the knowledge of the Company, there exists no facts or circumstances that would be reasonably likely to result in the institution of suspension or debarment Proceedings or the finding of non-responsibility or ineligibility on the part of the Company or any of its directors, officers or employees.

**Section 3.14 Litigation.** There is no Proceeding pending by (or to the knowledge of the Company, any investigation by) any Governmental or Regulatory Authority or any other Person, or, to the knowledge of the Company, threatened, against or affecting the Company, or any of its assets or rights. The Company is not subject to any Order.

**Section 3.15 Taxes.** Since January 1, 1999:

(a) the Company has duly filed each Tax Return required to be filed by it (taking into account extensions), and all such Tax Returns are true, correct and complete in all material respects;

(b) the Company has paid all Taxes required to be paid by it (whether or not shown due on any Tax Return);

(c) the Company has complied with all Laws relating to the payment and withholding of Taxes and has, within the manner prescribed by Law, withheld and paid over to the proper tax authorities all amounts required to be withheld and paid over by it;

(d) no pending or, to the knowledge of the Company, threatened audit, proceeding, examination or litigation or similar claim has been commenced or is presently pending with respect to any Taxes or Tax Return of the Company;

(e) no written claim has been made by any tax authority in a jurisdiction where the Company does not file a Tax Return that the Company is or may be subject to taxation in that jurisdiction;

(f) no outstanding written agreements, consents or waivers to extend the statutory period of limitations applicable to the assessment of any Taxes or deficiencies against the Company, and no power of attorney granted by the Company with respect to any Taxes is currently in force;

(g) the Company is not a party to any agreement providing for the allocation or sharing of any Taxes imposed on or with respect to any Person, and the Company (A) has not been a member of an affiliated group (or similar state, local or foreign filing group) filing a consolidated U.S. federal income Tax Return or (B) has any liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), or as a transferee or successor;

(h) the federal income Tax Returns of the Company have been examined by and settled with the Internal Revenue Service (or the applicable statutes of limitation have lapsed) for all years through December 31, 2005. All assessments for Taxes due with respect to such completed and settled examinations or any concluded litigation have been fully paid;

(i) no state or local income Tax Returns were required to have been filed by the Company that were not filed;

(j) the Company has not participated in a "reportable transaction" within the meaning of Treasury Regulations Section 1.6011-4(b);

(k) the Company has previously delivered or made available to the Purchaser (A) complete and accurate copies of all Tax Returns of the Company for the prior three (3) tax years; (B) all audit reports, letter rulings, technical advice memoranda and similar documents issued by any tax authority relating to the United States Federal, state, local or foreign Taxes due from or with respect to the Company and (C) any closing agreements entered into by the Company with any tax authority in each case existing on the date hereof;

(l) the Company has made a valid S election under Section 1362 of the Code and has made all such elections required under analogous provisions of state and local law. All such elections were effective for the tax year of the Company beginning April 1, 1999 and remain in full force and effect through the date hereof;

(m) the Company is not presently and has not been, a United States real property holding corporation (as defined in Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code;

(n) the Company has not been required to include in income any adjustment pursuant to Section 481 of the Code by reason of a voluntary change in accounting method initiated by the Company, and the IRS has not initiated or proposed any such adjustment or change in accounting method;

(o) the Company has not been a “distributing corporation” or a “controlled corporation” in a distribution intended to qualify under Section 355 of the Code within the past five years;

(p) the Company has disclosed on all relevant Tax Returns any positions taken therein that could give rise to a substantial understatement of Taxes within the meaning of Section 6662 of the Code; and

(q) the Company is not a party to any agreement that would require it to make any payment that would constitute an “excess parachute payment” for purposes of Sections 280G and 4999 of the Code.

**Section 3.16 Insurance.** Set forth in Schedule 3.16 is a list and description of each insurance policy that covers the Company (including self-insurance), specifying as to each policy (i) the carrier, (ii) policy number, (iii) coverage limits and deductibles, (iv) expiration date, (v) annual premiums, (vi) type of coverage provided, (vii) policy exclusions and (viii) whether such policy is claims or occurrence based. Such policies are in full force and effect, all premiums thereon which are due have been paid, and the Company is otherwise in compliance in all material respects with the terms and provisions of such policies. The Company is not in default under any of the insurance policies set forth in Schedule 3.16 (or required to be set forth in Schedule 3.16) and there exists no event, occurrence, condition or act (including the transfer of the Shares) which, with the giving of notice, the lapse of time or the happening of any other event or condition, would reasonably be expected to become a default thereunder. The Company has not received any notice of cancellation or non-renewal of any such policy or arrangement nor has the termination of any such policies or arrangements been threatened, and there exists no event, occurrence, condition or act which, with the giving of notice, the lapse of time or the happening of any other event or condition, would reasonably be expected to entitle any insurer to terminate or cancel any such policies. Schedule 3.16 also sets forth a list of all pending claims and the claims history for the Company during the past five (5) years (including with respect to insurance obtained during such period but not currently maintained).

**Section 3.17 Intellectual Property.**

(a) The Company owns, or has the right to use, all Intellectual Property necessary for the conduct of the Business as currently conducted. No claim has been asserted or is pending by any Person challenging or questioning the use of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor, to the knowledge of the Company, does any valid basis for any such claim exist. The Company’s operations and business do not infringe or misappropriate the Intellectual Property rights of any Person. The Company has taken reasonable steps to maintain and protect as confidential and proprietary all of its trade secrets and other non-public proprietary information.

(b) Except as set forth on Schedule 3.17(b), (i) the Company has not interfered with, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property rights of third parties, and in the last five (5) years, the Company has not received any charge, complaint, claim, demand or notice alleging any such interference, infringement, misappropriation or violation (including any claim that the Company must license or refrain from using any intangible property rights of any third party) which has not been resolved and (ii) to the knowledge of the Company, no third party has interfered with, infringed upon, misappropriated or otherwise come into conflict with any of the Intellectual Property.

(c) Schedule 3.17(c) identifies (i) each patent or registration which has been issued to the Company with respect to any of the Intellectual Property, (ii) each pending patent application or application for registration which the Company has made with respect to any of the Intellectual Property and (iii) each license, sublicense or other agreement which the Company has granted to any third party with respect to any of the Intellectual Property. Schedule 3.17(c) also identifies each copyright, trademark, service mark, trade name or unregistered mark used by the Company in connection with the Business. Except as set forth on Schedule 3.17(c), with respect to each item of Intellectual Property required to be identified in Schedule 3.17(c): (i) the Company possesses all right, title and interest in and to the item, free and clear of any Liens or licenses, (ii) the item is not subject to any outstanding Order, (iii) no Proceeding is pending or, to the knowledge of the Company, threatened which challenges the legality, validity, enforceability, use or ownership of the item and (iv) other than routine indemnities given to distributors, sales representatives, dealers and customers, the Company does not have any current obligations to indemnify any Person for or against any interference, infringement, misappropriation, or other conflict with respect to the item.

(d) Schedule 3.17(d) identifies each item of Intellectual Property that any third party owns and that the Company uses pursuant to a license, sublicense or agreement. The Company has delivered to the Purchaser correct and complete copies of all such licenses, sublicenses and other agreements (as amended to date). Except as set forth on Schedule 3.17(d), with respect to each item of Intellectual Property required to be identified in Schedule 3.17(d): (i) each license, sublicense or other agreement covering the item is enforceable and, following the Closing, will continue to be enforceable on substantially similar terms and conditions, (ii) neither the Company nor, to the knowledge of the Company, any other party to a license, sublicense or other agreement is in breach or default, and no event has occurred which, with notice or lapse of time, would reasonably be expected to constitute a breach or default or permit early termination, modification or acceleration thereunder, (iii) neither the Company nor, to the knowledge of the Company, any other party to a license, sublicense or other agreement has repudiated any provision thereof, (iv) the underlying item of Intellectual Property is not subject to any outstanding Order, (v) no Proceeding is pending or, to the knowledge of the Company, threatened which challenges the legality, validity, enforceability or use of the underlying item of Intellectual Property and (vi) the Company has not granted any sublicense or similar right with respect to any license, sublicense or other agreement.

**Section 3.18 Compliance with Laws.** The Company (and its assets and properties) has complied and is in compliance with all applicable Laws, Orders and Permits, except for such non-compliance which, individually or in the aggregate, would not constitute a Material Adverse Effect. The Company has not received any notice to the effect that, or otherwise been advised that, the Company or any of its assets and properties are not in compliance with any applicable Law, Order or Permit and, to the knowledge of the Company, there are no presently existing facts, circumstances or events which, with notice or lapse of time, would result in violations of any applicable Law, Order or Permit.

**Section 3.19 Accounts Receivable; Accounts Payable; Accrued Liabilities.**

(a) All of the Accounts Receivable represent sales actually made or services actually performed by the Company and each is the valid and enforceable obligation of the obligor thereto. To the knowledge of the Company, all of the Accounts Receivable will be good and collectible in full in the ordinary course of business and in any event not later than one hundred twenty (120) days after the Closing Date, and none of such Accounts Receivable is, or at the Closing Date will be, subject to any counterclaim or set-off except to the extent of any such provision or reserve.

(b) The Accounts Payable and Accrued Liabilities have arisen in bona fide arm's length transactions in the ordinary course of business. There are no unpaid invoices or bills representing amounts alleged to be owed by the Company, or other alleged obligations of the Company, which the Company has disputed or determined to dispute or refuse to pay.

**Section 3.20 Inventory.** Except as set forth in Schedule 3.20, (i) the Inventory is in the physical possession of the Company and (ii) none of the Inventory has been pledged as collateral or otherwise is subject to any Lien (other than any Lien imposed as a matter of law) or is held on consignment from others. The Inventory was acquired or produced by the Company in the ordinary course of business. Except as reflected in the reserve for obsolete Inventory reflected in the Financial Statements, the Inventory is good and merchantable and is of a quality and quantity presently useable and salable by the Company in the ordinary course of business.

**Section 3.21 Suppliers and Customers.** Schedule 3.21 sets forth the top ten (10) customers and suppliers of the Company, based on sales volume, for the period beginning on January 1, 2008 and ending on the date hereof. The relationship of the Company with each such supplier and customer is a good commercial working relationships, and except as set forth in Schedule 3.21, to the knowledge of the Company, (i) no such supplier or customer has canceled or otherwise terminated its relationship with the Company, and (ii) the Company has no reasonable basis to believe that any supplier or customer set forth on Schedule 3.21 intends to cancel or otherwise terminate its relationship with the Company. The Company has not received any notice that any such supplier or customer may cancel or otherwise materially and adversely modify its relationship with the Company or limit its services, supplies or materials to the Company, or its usage or purchase of the services and products of the Company either as a result of the transactions contemplated hereby or otherwise. Except as set forth in Schedule 3.21, no customer of the Company has any re-stocking rights or similar right to return any non-defective products to the Company for reimbursement or credit.

### ***Section 3.22 Personnel.***

(a) Schedule 3.22(a) identifies for each current employee of the Company (an “***Employee***”), his or her name, department and current base salary or wages.

(b) (i) the Company does not have any obligations under any written or oral labor agreement, collective bargaining agreement or other agreement with any labor organization or employee group, (ii) to the knowledge of the Company, the Company is not currently engaged in any unfair labor practice and there is no unfair labor practice charge or other employee-related or employment-related complaint against the Company pending or, to the knowledge of the Company, threatened before any Governmental or Regulatory Authority, (iii) there is currently no labor strike, labor disturbance, slowdown, work stoppage or other material labor dispute or arbitration pending or, to the knowledge of the Company, threatened against the Company and no material grievance currently being asserted, (iv) the Company has not experienced a labor strike, labor disturbance, slowdown, work stoppage or other material labor dispute at any time during the three (3) years immediately preceding the date of this Agreement and (v) except as set forth in Schedule 3.22(b), to the knowledge of the Company, there are no claims against the Company by any Person for unpaid wages, wrongful termination, accidental injury or death, sexual harassment or discrimination or violation of any Law and, to the knowledge of the Company, no valid basis for any such claim exists.

(c) To the knowledge of the Company, the Company has classified each individual who currently performs services for or on behalf of the Company as a contractor or employee in accordance with all applicable Laws, except where such failure to have made the correct classification will not result in a Material Adverse Effect.

(d) The Company has on file a valid Form I-9 for each current Employee hired by the Company on or after November 7, 1986 and for each employee whose employment with the Company terminated on or after October 1, 2005. All Employees are (i) United States citizens or lawful permanent residents of the United States, (ii) aliens whose right to work in the United States is unrestricted, (iii) aliens who have valid, unexpired work authorization issued by the U. S. Department of Homeland Security or (iv) aliens who have been continually employed by the Company since November 6, 1986. With respect to the Employees, the Company has not been the subject of an immigration compliance or employment visit from, nor has the Company been assessed any fine or penalty by, or been the subject of any Order or directive of, the United States Department of Labor or the U. S. Department of Homeland Security.

### ***Section 3.23 Employee Benefit Plans.***

(a) Schedule 3.23(a) sets forth a list of all “employee benefit plans” (as defined in Section 3(3) of ERISA), whether or not subject to ERISA and all other employment, compensation, consulting, bonus, stock option, restricted stock grant, stock purchase, other cash or stock-based incentive, profit sharing, savings, retirement, disability, insurance, severance, retention, change in control, deferred compensation and other compensatory plans, policies, programs, agreements or arrangements sponsored, maintained, contributed to or required to be contributed to, or entered into or made by the Company with or for the benefit of, or relating to, any current or former Employee, director or other independent contractor of, or consultant to, the Company and with respect to which the Company has or may have any direct or indirect liability (together, the “***Employee Plans***”).

(b) The Company has provided the Purchaser true and complete copies of (i) all Employee Plans, together with all amendments thereto, (ii) the latest Internal Revenue Service determination letters obtained with respect to any Employee Plan intended to be qualified under Section 401(a) or 501(a) of the Code, (iii) the two most recent annual actuarial valuation reports, if any, (iv) the two most recently filed Forms 5500 together with all related schedules, if any, (v) the “summary plan description” (as defined in ERISA), if any, and all modifications thereto communicated to Employees, (vi) any trust or other funding governing documents for vehicles maintained as part of any Employee Plan, and (vii) the two most recent annual and periodic accountings of related plan assets.

(c) Neither the Company nor any of its directors, officers, Employees or agents has, with respect to any Employee Plan, engaged in or been a party to any “prohibited transaction” (as defined in Section 4975 of the Code or Section 406 of ERISA), which could result in the imposition of either a penalty assessed pursuant to Section 502(i) of ERISA or a tax imposed by Section 4975 of the Code, in each case applicable directly or indirectly (through an indemnification obligation or otherwise) to the Company or any Employee Plan.

(d) All Employee Plans have been administered in accordance with their terms and in compliance in all material respects with Law. No compensation paid or required to be paid under any Employee Plan is or will be subject to additional tax under Section 409A(1)(B) of the Code.

(e) There are no pending or, to the knowledge of the Company, threatened claims, arbitrations, regulatory or other Proceedings (other than routine claims for benefits), relating to any of the Employee Plans, or the assets of any trust for any Employee Plan.

(f) Each Employee Plan intended to qualify under Section 401(a) of the Code, and the trusts created thereunder intended to be exempt from tax under the provisions of Section 501(a) of the Code has received a favorable determination or opinion letter from the Internal Revenue Service which is currently in effect. To the knowledge of the Company, nothing has occurred since the date of the determination letter that would adversely effect the qualification or tax exempt status of such Employee Plan and its related trust.

(g) All contributions or payments required to be made before the Effective Time under the terms of any Employee Plan will have been made by the Effective Time. Contributions that are not yet due on or before the Effective Time have been accrued on the Financial Statements.

(h) The Company does not contribute, nor within the six-year period ending on the date hereof has it contributed or been obligated to contribute, to any plan, program or agreement which is a “multiemployer plan” (as defined in Section 3(37) of ERISA) or which is subject to Section 412 of the Code or Section 302 or Title IV of ERISA.

(i) No Employee Plan provides medical, surgical, hospitalization, death or similar benefits (whether or not insured) for current or former Employees, directors, consultants or other personnel of the Company for periods extending beyond their retirement or other termination of service (other than group health plan continuation coverage mandated by Law), except that the Employee Plans provide for coverage through the end of the month in which an employee’s employment with the Company terminates.

(j) No condition exists that would prevent the Company from amending or terminating any Employee Plan providing health or medical benefits in respect of any active Employee.



**Section 3.24 Environmental Matters.** Except as set forth in Schedule 3.24, (i) the Company is now, and at all times prior to the Closing Date has been, in material compliance with all applicable Environmental Laws, and has obtained, and is in compliance with, all Permits required of it under applicable Environmental Laws; (ii) there are no claims, Proceedings, investigations or actions by any Governmental or Regulatory Authority or other Person or entity pending, or to the knowledge of the Company, threatened, against the Company under any Environmental Law; and (iii) there are no facts, circumstances or conditions relating to the past or present business or operations of the Company (including the disposal of any wastes, hazardous substances or other materials), or to any real property or improvements now or formerly owned, leased, used, operated or occupied by the Company, that could reasonably be expected to give rise to any claim, Proceeding or action, or to any liability, under any Environmental Law.

**Section 3.25 Affiliate Transactions.** Except as set forth in Schedule 3.25, (i) there are no Contracts, liabilities or obligations between the Company, on the one hand, and any Affiliate of the Company on the other hand and (ii) neither the Company, nor any Affiliate of the Company nor any Shareholder or director of the Company possesses, directly or indirectly, any financial interest in, or is a director, officer or employee of, any Person which is a client, supplier, customer, lessor, lessee, or competitor or potential competitor of the Company. Ownership of securities of a company whose securities are registered under the Securities and Exchange Act of 1934, as amended, of 1% or less of any class of such securities shall not be deemed to be a financial interest for purposes of this Section 3.25.

**Section 3.26 Bank Account; Powers of Attorney.** Set forth in Schedule 3.26 is an accurate and complete list showing (i) the name and address of each bank in which the Company has an account or safe deposit box, the number of any such account or any such box and the names of all Persons authorized to draw thereon or to have access thereto and (ii) the names of all Persons, if any, holding powers of attorney from the Company and a summary statement of the terms thereof.

**Section 3.27 Permits.** Schedule 3.27 contains a complete and accurate list of all material Permits obtained or possessed by the Company, the date each such Permit was last granted to the Company and the current term of each Permit. The Company has obtained and possesses all Permits, except where the failure to obtain such Permit would likely result in a Material Adverse Effect; and has made all registrations or filings with or notices to any Governmental or Regulatory Authority necessary for the lawful conduct of the Business as presently conducted, or necessary for the lawful ownership of the its assets and properties or the operation of its business as presently conducted. All such Permits are in full force and effect. The Company is in compliance with all such Permits except for such non-compliances that would not, individually or in the aggregate, have a Material Adverse Effect. Except as set forth in Schedule 3.27, each such Permit can be renewed or transferred in the ordinary course of business. Any applications for the renewal of any such Permit which are due prior to the Closing Date will be timely made or filed by the Company prior to the Closing Date. No Proceeding to modify, suspend, revoke, withdraw, terminate or otherwise limit any such Permit is pending or, to the knowledge of the Company, threatened, and the Company does not know of any valid basis for such Proceeding, including the transactions contemplated hereby. No administrative or governmental action or Proceeding has been taken or, to the knowledge of the Company, threatened, in connection with the expiration, continuance or renewal of any such Permit and, to the knowledge of the Company, no valid basis for any such Proceeding exists.

**Section 3.28 Absence of Changes.** Except as set forth in Schedule 3.28, since the Balance Sheet Date there has not been a Material Adverse Change with respect to the Company, no fact, circumstance or event exists or has occurred which would, individually or in the aggregate, result in a Material Adverse Change with respect to the Company and the Company has not:

(a) increased the compensation payable (including, but not limited to, wages, salaries, bonuses or any other remuneration) or to become payable to any officer, employee or agent, other than in accordance with the Company's usual practices;

(b) made any bonus, profit sharing, pension, retirement or insurance payment, distribution or arrangement to or with any officer, personnel, consultant or agent, except for payments that were already accrued prior to the Balance Sheet Date or cash dividends paid to the Shareholders prior to Closing;

(c) entered into, materially amended or become subject to any Contract or any contract or agreement outside the ordinary course of business;

(d) permitted any of its properties or assets to be subject to any Lien (other than Permitted Liens);

(e) sold, transferred, leased, licensed or otherwise disposed of any assets or properties except for (i) sales of Inventory in the ordinary course of business consistent with past practice and (ii) leases or licenses entered into in the ordinary course of business consistent with past practice;

(f) acquired any business or Person, by merger or consolidation, purchase of substantial assets or equity interests, or by any other manner, in a single transaction or a series of related transactions, or entered into any Contract, letter of intent or similar arrangement (whether or not enforceable) with respect to the foregoing;

(g) made any capital expenditure or commitment therefor in excess of \$50,000 individually or \$100,000 in the aggregate or otherwise acquired any assets or properties (other than Inventory in the ordinary course of business consistent with practice) or entered into any Contract, letter of intent or similar arrangement (whether or not enforceable) with respect to the foregoing;

(h) entered into, materially amended or become subject to any joint venture, partnership, strategic alliance, members' agreement, co-marketing, co-promotion, co-packaging, joint development or similar arrangement;

(i) written-off as uncollectible any notes or Accounts Receivable, except write-offs in the ordinary course of business consistent with past practice charged to applicable reserves;

(j) granted any special conditions with respect to any Account Receivable other than in the ordinary course of business consistent with past practice;

(k) failed to pay any Account Payable on a timely basis in the ordinary course of business consistent with past practice;

(l) canceled or waived any claims or rights of substantial value;

(m) made any change in any method of accounting or auditing practice;

(n) paid, discharged, settled or satisfied any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than payments, discharges or satisfactions in the ordinary course of business and consistent with past practice of liabilities reflected or reserved against in the Financial Statements;

(o) conducted its cash management customs and practices (including the collection of receivables and payment of payables) other than in the ordinary course of business consistent with past practice; or

(p) entered into any contract or letter of intent with respect to (whether or not binding), or otherwise committed or agreed, whether or not in writing, to do any of the foregoing.

**Section 3.29 Brokers' or Finders' Fees.** Except for Houlihan Lokey Howard & Zukin Capital, Inc., no agent, broker, Person or firm acting on behalf of the Shareholders, the Company or any of their respective Affiliates is, or will be, entitled to any commission or brokers' or finders' fees from the Company or the Purchaser, or from any of their Affiliates, in connection with any of the transactions contemplated by this Agreement.

**Section 3.30 Product Warranties.**

(a) Schedule 3.30(a) contains a form of each product warranty relating to products produced or sold by the Company or services performed by the Company which will be in effect on the Closing Date.

(b) No products designed, manufactured, marketed or sold by the Company have been recalled or withdrawn (whether voluntarily or otherwise) at any time during the past five (5) years (for purposes of this Section 3.30, a product shall have been recalled or withdrawn if all or a substantial number of products in a product line were recalled or withdrawn) and (ii) no Proceedings by (or to the knowledge of the Company, no investigations by) any Governmental or Regulatory Authority have been instituted, threatened or completed at any time during the past five (5) years seeking the recall, withdrawal, suspension or seizure of any product sold by the Company.

(c) To the knowledge of the Company, no material defect exists in any design, materials, manufacture or otherwise in any products designed, manufactured, marketed or sold by the Company during the past five (5) years or any defect in, or replacement of, any such products exists which could give rise to any material claim.

(d) Except as provided in any of the standard product warranties described in Section 3.30(a) and as otherwise set forth in Schedule 3.30(d), the Company has not sold any products or services which are subject to an extended warranty of the Company beyond twelve (12) months and which warranty has not yet expired.

(e) Each of the products of the Company has been designed and manufactured to meet and comply in all material respects with all governmental standards and specifications currently in effect. To the knowledge of the Company, there are no statements, citations or decisions by any Governmental or Regulatory Authority or any product testing laboratory stating that any product of the Company is unsafe or fails to meet any standards, whether mandatory or voluntary, promulgated by such Governmental or Regulatory Authority or testing laboratory, as the case may be, nor have there been any mandatory or voluntary recalls of any product of the Company. To the knowledge of the Company, there has been no pattern of defects in the design, construction, manufacture, assembly or installation of any product designed, manufactured, marketed or sold by the Company nor any fact relating to any such product that may reasonably be expected to impose a duty on the Company to recall any product or warn any customer of a defect in any product.

***Section 3.31 Export Control Regulations.***

(a) Schedule 3.31(a) contains a true and complete list of (i) all current and active import and export licenses issued by the United States government for the products imported or exported by the Company and for the procurement by the Company of materials related to the manufacture of its products; (ii) a complete and current accounting of licensing exemptions used by the Company for products being imported or exported; and (iii) all export related agreements, including, but not limited to, technical assistance agreements, manufacturing license agreements, distribution and warehousing agreements with any non-U.S. entity for the manufacture of export controlled designs or for the transfer of technical information between the Company and a non-U.S. Person.

(b) Schedule 3.31(b) contains a true and complete list of all voluntary disclosures made, currently in process or proposed for submission to the U.S. Government by the Company with respect to import and export matters.

(c) Except as set forth in Schedule 3.31(c), to the knowledge of the Company, no current or past violation of the regulations of the United States or of any foreign government as related to the import or export of the products of the Company have occurred.

(d) The Company has an Export Compliance Program that has been administered in such a manner as to reasonably assure that the Company has been conducted in compliance with the U.S. Government regulations regarding the export of commercial and defense related products and technology.

**Section 3.32 Full Disclosure.** This Agreement (including the Schedules) does not (i) contain any representation, warranty or information of or relating to the Company or the Shareholders that is false or misleading with respect to any material fact, or (ii) omit to state any material fact necessary in order to make such representations, warranties and information contained and to be contained herein and therein (in the light of the circumstances under which such representations, warranties and information were or will be made or provided) not false or misleading. Any item listed in any Schedule shall be also be considered to have been listed on all other Schedules to the extent the applicability to such other Schedules is reasonably evident.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

The Purchaser represents and warrants to the Shareholders as follows:

**Section 4.1 Existence and Good Standing.** The Purchaser (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, (ii) has all requisite corporate power and authority to own its property and to carry on its business as now conducted, (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character or location of the properties owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except for such jurisdictions where the failure to be so qualified or licensed and in good standing would not have a Material Adverse Effect.

**Section 4.2 Authority and Enforceability.** The Purchaser has all necessary power and authority and has taken all action necessary to authorize, execute and deliver this Agreement and the Transaction Documents, to consummate the transactions contemplated hereby and thereby, and to perform its obligations under this Agreement and the Transaction Documents. No other action on the part of the Purchaser is required to authorize the execution and delivery of this Agreement and the Transaction Documents and to consummate the transactions contemplated hereby and thereby. This Agreement and the Transaction Documents, when delivered in accordance with the terms hereof, assuming the due execution and delivery of this Agreement and each such other document by the other parties hereto and thereto, shall have been duly executed and delivered by the Purchaser and shall be valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms, except to the extent that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and to general equitable principles.

**Section 4.3 Consents and Approvals; No Violations.**

(a) The execution and delivery of this Agreement by the Purchaser do not, the execution and delivery by the Purchaser of the other instruments and agreements to be executed and delivered by the Purchaser as contemplated hereby will not and the consummation by the Purchaser of the transactions contemplated hereby and thereby will not result in a violation or breach of, conflict with, constitute (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, payment or acceleration) under, or result in the creation of any Lien upon any of the properties or assets of the Purchaser under: (i) any provision of the certificate of incorporation or by-laws of the Purchaser; (ii) subject to obtaining and making any of the approvals, consents, notices and filings referred to in paragraph (b) below, any Law or Order applicable to the Purchaser or by which any of its properties or assets may be bound (iii) any Contract to which the Purchaser is a party, or by which any of its properties or assets is bound.

(b) No consent, approval or action of, filing with or notice to any Governmental or Regulatory Authority or other Person is necessary or required under any of the terms, conditions or provisions of any Law or Order, any Contract to which the Purchaser is a party or by which any of its properties or assets is bound, for the execution and delivery of this Agreement and the Transaction Documents by the Purchaser, the performance by the Purchaser of its obligations hereunder or thereunder or the consummation of the transactions contemplated hereby and thereby.

**Section 4.4 Brokers' or Finders' Fees.** No agent, broker, person or firm acting on behalf of Purchaser is, or will be, entitled to any commission or brokers' or finders' fees from the Shareholders or from their respective Affiliates, in connection with any of the transactions contemplated by this Agreement.

**Section 4.5 Purchaser Shares, Promissory Notes and Contingent Promissory Notes.** The Purchaser Shares, when delivered pursuant to this Agreement, will be (i) duly authorized, validly issued and non-assessable and (ii) free and clear of all Liens, except that such Purchaser Shares will not be registered under the Securities Act of 1933, as amended, or any state securities law, and will be subject to restrictions on transfer. When issued pursuant to this Agreement, the Promissory Notes and the Contingent Promissory Notes will be free and clear of all Liens.

**Section 4.6 Full Disclosure.** This Agreement (including the Schedules) does not (i) contain any representation, warranty or information of or relating to the Purchaser that is false or misleading with respect to any material fact, or (ii) omit to state any material fact necessary in order to make such representations, warranties and information contained and to be contained herein and therein (in the light of the circumstances under which such representations, warranties and information were or will be made or provided) not false or misleading.

## ARTICLE V COVENANTS

**Section 5.1 Public Announcements.** Neither the Company, the Shareholders nor the Purchaser shall, nor shall any of their respective Affiliates, without the approval of the other parties, issue any press releases or otherwise make any public statements with respect to the transactions contemplated by this Agreement, except as may be required by applicable law or regulation or by obligations pursuant to any listing agreement with any national securities exchange.

**Section 5.2 Investigation by the Purchaser.** During the period beginning on the date of this Agreement and ending on the Closing Date, the Purchaser and each of its Representatives will continue to conduct a review of the Company and the Business. In connection with such review, the Shareholders shall grant, and cause the Company to grant, to the Purchaser and each of Purchaser's Representatives full access to the Books and Records, property, assets and personnel of the Company upon reasonable prior notice and during normal business hours. In connection with such review, the Shareholders agree, and shall cause the Shareholders' Representative, upon reasonable prior notice, to (i) cooperate with the Purchaser and each of Purchaser's Representatives, (ii) provide all information, and all documents and other data relating to such information, reasonably requested by the Purchaser or any Representative of the Purchaser and (iii) permit the Purchaser and each of Purchaser's Representatives to inspect any assets of the Company or the Business.

**Section 5.3 Notifications, Consents and Approvals.** As soon as practicable, the Purchaser and the Shareholders shall commence all reasonable actions to obtain the consents and approvals (including, but not limited to, those approvals, consents, orders, registrations, declarations and filings marked with an asterisk in Schedule 3.4(b)) and to make the filings required to consummate the transactions contemplated by this Agreement.

**Section 5.4 Conduct Pending Closing.** From the date of this Agreement to the Closing Date, and except as otherwise specifically provided in this Agreement or consented to or approved by the Purchaser in advance in writing, such consent or approval not to be unreasonably withheld or delayed, the Shareholders agree as follows:

(a) the Shareholders shall cause the Company to carry on its business substantially in the same manner as heretofore conducted and shall not engage in any transaction or activity, enter into or amend any agreement or make any commitment except in the ordinary course of business;

(b) the Shareholders shall use reasonable commercial efforts to preserve the Company's existence and business organization intact and to preserve the Company's business, properties, assets and relationships with its personnel, suppliers, customers and others with whom it has business relations;

(c) the Shareholders shall cause the Company to distribute all cash and cash equivalents to the Shareholders, except for cash necessary to cover outstanding checks as of the date of the Closing;

(d) the Shareholders shall cause the Company to not (A) grant any special conditions with respect to any Account Receivable other than in the ordinary course of business consistent with past practice, (B) fail to pay any Account Payable on a timely basis in the ordinary course of business consistent with past practice, (C) except as disclosed in this Agreement, make or commit to make any capital expenditures in excess of \$10,000 in the aggregate without the prior written consent of the Purchaser or (D) start up or acquire any new business or product line which is not similar to or directly complementary to any existing business or product line;

(e) the Shareholders shall cause the Company to not enter into any settlement with respect to any Proceeding against or relating to the Company; and

(f) the Shareholders shall not voluntarily take any action or cause the Company to take any action, or voluntarily fail to take any action or cause the Company to voluntarily fail to take any action the failure of which, would cause, any representation or warranty of the Shareholders contained in this Agreement to be breached or untrue in any material respect.

***Section 5.5 Notification of Certain Matters.***

(a) The Shareholders shall give prompt written notice to the Purchaser of (i) any fact or circumstance, or any occurrence or failure to occur of any event of which the Shareholders have knowledge, which fact, circumstance, occurrence or failure causes or, with notice or the lapse of time, would cause any representation or warranty of the Shareholders contained in this Agreement to be breached or untrue or inaccurate in any respect any time from the date of this Agreement to the Closing Date and (ii) any failure of the Shareholders or the Company to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by the Shareholders under this Agreement.

(b) The Purchaser shall give prompt written notice to the Shareholders of (i) any fact or circumstance, or any occurrence or failure to occur of any event of which the Purchaser has knowledge, which fact, circumstance, occurrence or failure causes or, with notice or the lapse of time, would cause any representation or warranty of the Purchaser contained in this Agreement to be breached or untrue or inaccurate in any respect any time from the date of this Agreement to the Closing Date and (ii) any failure of the Purchaser to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by the Purchaser under this Agreement.

***Section 5.6 Access to Records and Personnel.*** For a period of seven (7) years after the Closing Date, the Shareholders and their Representatives will have reasonable access to (including the right to make copies of) all Books and Records of the Company to the extent that such access may reasonably be required in connection with matters relating to (i) all matters as to which the Shareholders are required to provide indemnification under this Agreement or (ii) the preparation of any Tax Returns required to be filed by the Shareholders with respect to any period, whether ending prior to, on or after the Closing. Such access will be afforded by the Purchaser upon receipt of reasonable advance notice and during normal business hours, provided such access does not unduly disrupt the Purchaser's normal business operations. The Shareholders will be solely responsible for any costs or expenses incurred by it pursuant to this [Section 5.6](#). If the Purchaser wishes to dispose of any Books and Records prior to the expiration of the seven-year period, the Purchaser shall, prior to such disposition, give the Shareholders a reasonable opportunity, at the Shareholders' expense, to segregate and remove such books and records as the Shareholders may select.

***Section 5.7 Further Assurances.*** At any time and from time to time after the Closing, the Shareholders shall, at the reasonable request of the Purchaser and at the Purchaser's expense but without further consideration, execute and deliver any further deeds, bills of sale, endorsements, assignments, and other instruments of conveyance and transfer, and take such other actions as the Purchaser may reasonably request in order (i) to more effectively transfer, convey, assign and deliver to the Purchaser, and to place the Purchaser in actual possession and operating control of, and to vest, perfect or confirm, of record or otherwise, in the Purchaser all right, title and interest in, to and under the Shares and the assets, properties and rights of the Company, or (ii) to otherwise carry out the intents and purposes of this Agreement.



**Section 5.8 No Negotiation.** Until such time as this Agreement may be terminated pursuant to Section 9.1, the Shareholders shall not, and shall cause the Company not to, directly or indirectly, solicit, initiate, encourage or entertain any inquiries or proposals from, or discuss or negotiate with any Person other than the Purchaser or its Representatives relating to an acquisition or other disposition of the Shares, any other shares of the Authorized Stock or the assets, properties and rights of the Company.

**Section 5.9 Tax Matters.** The following provisions will govern the allocation of responsibility as among the Purchaser and the Shareholders for certain Tax matters following the Closing Date:

(a) **Tax Periods Ending Prior to the Closing Date.** The Shareholders shall prepare or cause to be prepared and file by the original due date or cause to be filed by the original due date all Tax Returns for the Company for all periods ending prior to the Closing Date which are filed after the Closing Date and the Shareholders shall pay all Taxes due in connection therewith. The Shareholders shall provide the Purchaser with copies of all such Tax Returns at least 15 days prior to filing for the Purchaser's review and approval, such approval not to be unreasonably withheld or delayed. Except as otherwise required by applicable Laws, each of such Tax Returns must be prepared in a manner consistent with Tax Returns prepared and filed by the Company prior to the Closing Date. The amount of such Taxes of the Company with respect to such periods shall be a set-off against the remaining payments due under the Promissory Notes.

(b) **Tax Periods Beginning Before and Ending at the Closing Date.** The Shareholders shall prepare or cause to be prepared and file or cause to be filed any Tax Returns of the Company for Tax periods which begin before the Closing Date and end at the Closing Date. The Shareholders shall provide the Purchaser with copies of all such Tax Returns at least 15 days prior to filing for the Purchaser's review and approval, such approval not to be unreasonably withheld or delayed. Except as otherwise required by applicable Law, such Tax Returns will be prepared in a manner consistent with Tax Returns prepared and filed by the Company prior to the Closing Date. The amount of such Taxes of the Company with respect to such periods shall be a set-off against the remaining payments due under the Promissory Notes.

(c) **Cooperation on Tax Matters.** The Purchaser and the Shareholders shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns pursuant to this Section 5.9 and any Proceeding with respect to Taxes. Such cooperation will include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such Proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Purchaser and the Shareholders agree (i) to retain all books and records with respect to Tax matters pertinent to the Company relating to any taxable period beginning before the Closing Date until expiration of the statute of limitations (and, to the extent notified by the Purchaser or the Shareholders, as applicable, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) after the expiration of the statute of limitations, to give the other party reasonable written notice prior to destroying or discarding any such books and records, and, if the other party so requests, the Purchaser or the Shareholders, as the case may be, shall allow the other party to take possession of such books and records. The Purchaser and the Shareholders agree, upon request, to use their reasonable best efforts to obtain any certificate or other document from any Governmental or Regulatory Authority as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including with respect to the transactions contemplated hereunder).

**Section 5.10 Warranty Obligations.** Following the Closing Date, the Purchaser shall, at the Shareholders' cost and expense, perform all warranty obligations with respect to products manufactured and sold by the Company prior to the Closing Date pursuant to the terms of the warranties issued in connection with such sales which in the case of the *Viper T* system (also known as TETS) shall be for the initial two (2) year term commencing upon acceptance by the Government, it being understood that the Purchaser shall be responsible for any extension of the Warranty Obligations with respect to the *Viper T* system beyond the initial two (2) year term provided that such extension is granted after the Closing Date (the "**Warranty Obligations**"). The Warranty Obligations to be paid, performed, and discharged by the Purchaser shall be limited to the obligations stated under the applicable warranties of the Company. Products will be deemed to be "manufactured and sold" prior to the Closing Date if such products were completed, sold and shipped or were in or finished goods Inventory prior to the Closing Date. Products that were not completed prior to the Closing Date or were in raw materials or work in process shall not be deemed to have been manufactured and sold prior to the Closing Date and any Warranty Obligations with respect to such products shall be the sole responsibility of the Purchaser. As consideration for the Purchaser's performance of the Warranty Obligations, the Shareholders shall pay to the Purchaser the "factory cost" incurred by the Purchaser in performing such Warranty Obligations, payable first, to the extent of amounts remaining payable under the Promissory Notes and/or the Contingency Promissory Notes, as a set-off against such amounts, and, if such remaining amounts payable under the Note are insufficient or unavailable, from the Shareholders by wire transfer of immediately available funds to the account designated in writing by the Purchaser. Factory cost shall include all direct costs of labor and materials actually paid by Purchaser net of any recoveries received from suppliers. Purchaser will use its reasonable efforts to perform the Warranty Obligations in the most cost effective manner, utilizing personnel familiar with the subject product and will take all reasonable efforts to have suppliers to the Company pay amounts owed by them with respect to Warranty Obligations or perform the warranty work which they are obligated to perform. Notwithstanding the above, the Shareholders shall have no obligation to pay or reimburse the Purchaser for Warranty Obligations until, and then only to the extent, that the Warranty Obligations exceed **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)**.

**Section 5.11 Confidentiality.**

(a) Commencing on the date hereof and continuing for a period of five (5) years thereafter, (i) each of the Shareholders will not divulge, transmit or otherwise disclose (except as legally compelled by court order, and then only to the extent required, after prompt notice to the Purchaser of any such order), directly or indirectly, any Confidential Information with respect to the Business and (ii) the Shareholders will not use, directly or indirectly, any Confidential Information for the benefit of anyone other than the Purchaser or the Business.

(b) Commencing on the date hereof and thereafter, the Shareholders shall not take any action to disparage or criticize the Purchaser or its Affiliates, directors, owners, personnel or customers, or to engage in any other action that is intended to injure or hinder the business relationships of the Business.

(c) It is the desire and intent of the parties to this Agreement that the provisions of this Section 5.11 shall be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. If any particular provisions or portion of this Section 5.11 shall be adjudicated to be invalid or unenforceable, this Section 5.11 shall be deemed amended to delete therefrom such provision or portion adjudicated to be invalid or unenforceable, such amendment to apply only with respect to the operation of such Section in the particular jurisdiction in which such adjudication is made.

(d) The parties recognize that the performance of the obligations under this Section 5.11 by the Shareholders is special, unique and extraordinary in character, and that in the event of the breach by the Shareholders of the terms and conditions of this Section 5.11, the Purchaser and the Company shall be entitled, if they so elect, to obtain damages for any breach of this Section 5.11 or to enforce the specific performance thereof by the Shareholders.

**Section 5.12 Update of Schedules.** From time to time prior to the Closing Date, the Shareholders may provide updates of all Schedules attached hereto to reflect changes thereto, including changes to any representations and warranties in Article III as to which no Schedules have been created as of the date hereof but as to which a Schedule would have been required to have been created on or before the date hereof if such changes had existed on the date hereof; provided, however, that the Shareholders shall deliver such updated Schedules not less than two (2) Business Days prior to the Closing Date in accordance with the provisions of Section 10.4 and shall provide any additional information with respect to such updated Schedules that the Purchaser may reasonably request within one (1) Business Day after such request. If any such updated Schedule represents a material change from such Schedule as attached to this Agreement on the date hereof, the Purchaser may terminate this Agreement in reliance on Section 9.1.

**Section 5.13 Section 338(h)(10) Election.** With respect to the acquisition of the Shares hereunder, the Purchaser and the Shareholders shall make a timely election under Section 338 of Code (and any corresponding elections under State or local tax law) (collectively a "**Section 338(h)(10) Election**"). The Shareholders and the Purchaser shall (i) take, and cooperate with each other to take, all actions necessary and appropriate (including filing such forms, returns, elections, schedules and other documents as may be required) to effect and preserve a timely Section 338(h)(10) Election in accordance with Section 338 of the Code and Treasury Regulations Section 1.338(h)(10)-1 or any successor provisions and any comparable provisions arising out of State or local tax law, and (ii) the Shareholders and the Purchaser shall report the sale of the Shares pursuant to this agreement consistent with the Section 338(h)(10) Election and shall take no position contrary thereto or inconsistent therewith in any tax return, any discussion with or Proceeding before any taxing authority, or otherwise. Purchaser will provide Shareholders with an election on IRS Form 8023 with an appropriate asset allocation on IRS Form 8883 for their approval no later than the Closing Date. The Purchaser and the Shareholders agree that the Purchase Price and liabilities of the Company will be allocated among the assets of the Company for all purposes on IRS Form 8883 as set forth in Schedule 5.13. Purchaser, the Company and the Shareholders shall all file Tax Returns (including amended returns and claims for refund) and information reports in a manner consistent with such election.

**Section 5.14 Indebtedness.** In the event that the Indebtedness owing to PNC Bank, National Association as of the Closing Date is less than \$1,450,000, Purchaser shall reimburse the Shareholders for such offset in an amount equal to \$1,450,000 less the amount of the Indebtedness owed to PNC Bank, National Association.

## ARTICLE VI CONDITIONS TO PURCHASER'S OBLIGATIONS

The purchase of the Shares by the Purchaser on the Closing Date is conditioned on satisfaction by the Shareholders, or waiver by the Purchaser, at or prior to the Closing, of the following conditions:

**Section 6.1 Representations and Warranties.** Each of the representations and warranties of the Company and the Shareholders contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date as though made on and as of the Closing Date (except for representations and warranties that are made as of a specific date, which shall be true and correct in all material respects as of that date), and the Shareholders shall have delivered to the Purchaser a certificate of the Shareholders, dated the Closing Date, to such effect.

**Section 6.2 Agreements and Covenants.** The Company and the Shareholders shall have performed or complied with all agreements and covenants required by this Agreement to be performed or complied with by them on or prior to the Closing Date, and the Shareholders shall have delivered to the Purchaser a certificate of the Shareholders, dated the Closing Date, to such effect.

**Section 6.3 Good Standing Certificate.** The Shareholders shall have delivered to Purchaser a certificates of existence and/or good standing for the Company (with tax clearance) from the Secretary of State of the State of Florida dated within thirty (30) days of the date of this Agreement.

**Section 6.4 No Material Adverse Change.** Since the Balance Sheet Date, there shall have been no Material Adverse Change with respect to the Business, and no events, facts or circumstances shall have occurred which would reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change, and the Shareholders shall have delivered to the Purchaser a certificate of the Shareholders, dated the Closing Date, to such effect.

**Section 6.5 No Litigation.** No Proceedings shall have been instituted or threatened before a court or other Governmental or Regulatory Authority to restrain or prohibit or materially delay any of the transactions contemplated hereby, and the Shareholders shall have delivered to the Purchaser a certificate of the Shareholders, dated the Closing Date, to such effect.

**Section 6.6 Delivery of Shares.** Each Shareholder shall have delivered to the Purchaser, and the Purchaser shall have received, one or more certificates or assignments representing, in the aggregate, the number of Shares owned by him, her or it, or, if such certificates or assignments are not available, an affidavit attesting to the loss of such documents accompanied by an indemnity acceptable to Purchaser in its sole discretion.

**Section 6.7 No Claim Regarding Share Ownership or Proceeds.** There will not have been made or threatened by any Person any claim asserting that such Person (i) is the holder or the beneficial owner of, or has the right to acquire or to obtain beneficial ownership of, any Authorized Stock, or any other voting, equity or ownership interest in, the Company or (ii) is entitled to all or any portion of the Purchase Price payable to the Shareholders for the Shares.

**Section 6.8 Consents and Approvals.** All governmental and third-party consents, waivers and approvals, if any, disclosed in Schedule 3.4(b) or otherwise necessary to permit the consummation of the transactions contemplated by this Agreement shall have been received.

**Section 6.9 Statutes; Orders.** No Law or Order of any kind shall have been enacted, entered, promulgated or enforced by any court or Governmental or Regulatory Authority which would prohibit or materially delay the consummation of the transactions contemplated by this Agreement or has the effect of making them illegal.

**Section 6.10 Proceedings.** All proceedings to be taken in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Purchaser and its counsel, and Purchaser shall have received copies of all such documents and other evidences as it or its counsel may reasonably request in order to establish the consummation of such transactions and the taking of all proceedings in connection therewith.

**Section 6.11 Minute Book and Stock Records.** The Shareholders will have delivered to the Purchaser the Company's original minute book and stock records.

**Section 6.12 Pay-Off Letters; Interest Rate Swap Agreement.** All Indebtedness of the Company as of the Closing Date shall have been repaid (as evidenced by customary pay-off letters from the holders of such Indebtedness delivered to the Purchaser by the Shareholders) and all arrangements reasonably satisfactory to the Purchaser providing for lien releases, canceled notes and other documents reasonably requested by the Purchaser prior to Closing shall have been made. The Company shall have provided the Purchaser with evidence reasonably satisfactory to the Purchaser that the ISDA Master Agreement, dated as of April 11, 2007, by and between PNC Bank, National Association, and the Company has been terminated.

**Section 6.13 Satisfactory Due Diligence.** The Purchaser and its Representatives shall have completed their environmental, tax, accounting, appraisal, legal and other due diligence review of the Company, and the Purchaser shall be satisfied in its sole discretion with the results of such due diligence review.

**Section 6.14 Resignations.** The Company shall have delivered to the Purchaser the resignation of each officer and director of the Company, in their capacities as officers and directors, and not as employees, as the Purchaser shall have specified.

**Section 6.15 Consulting Agreement.** The Company shall have entered into a two (2) year consulting agreement with Luis R. Mola on terms mutually acceptable to the Company and Luis R. Mola.

**Section 6.16 Delivery of Section 338(h)(10) Election Forms.** The Shareholders shall have delivered to the Purchaser all required forms, returns, elections, schedules and other documents necessary for the Section 338(h)(10) Election no later than two (2) days prior to the Closing Date.

**Section 6.17 Voting Agreement.** The Shareholders and the Purchaser shall have entered into a voting agreement with respect to the Purchaser Shares on terms mutually acceptable to the Shareholders and the Purchaser.

## **ARTICLE VII CONDITIONS TO SHAREHOLDERS' OBLIGATIONS**

The sale of the Shares by the Shareholders on the Closing Date is conditioned upon satisfaction by the Purchaser, or waiver by the Shareholders, at or prior to the Closing, of the following conditions:

**Section 7.1 Representations and Warranties.** Each of the representations and warranties of the Purchaser contained in this Agreement shall have been true and correct in all material respects on and as of the Closing Date as though made on and as of the Closing Date (except for representations and warranties that are made as of a specific date, which shall be true and correct in all material respects as of that date), and the Purchaser shall have delivered to the Shareholders' Representative a certificate of the Purchaser, dated the Closing Date, to such effect.

**Section 7.2 Agreements and Covenants.** The Purchaser shall have performed or complied with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Closing Date, and the Purchaser shall have delivered to the Shareholders' Representative a certificate of the Purchaser, dated the Closing Date, to such effect.

**Section 7.3 No Litigation.** No Proceedings shall have been instituted or threatened against the Purchaser before a court or other Governmental or Regulatory Authority to restrain or prohibit any of the transactions contemplated hereby, and the Purchaser shall have delivered to Shareholders' Representative a certificate of the Purchaser, dated the Closing Date, to such effect.

**Section 7.4 Consents and Approvals.** All governmental and third-party consents, waivers and approvals, if any, necessary to permit the consummation of the transactions contemplated by this Agreement shall have been received.

**Section 7.5 Statutes; Orders.** No Law or Order of any kind shall have been enacted, entered, promulgated or enforced by any court or Governmental or Regulatory Authority which prohibits the consummation of the transactions contemplated by this Agreement or has the effect of making them illegal.

**Section 7.6 Proceedings.** All proceedings to be taken in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Shareholders and their counsel, and the Shareholders shall have received copies of all such documents and other evidences as they or their counsel may reasonably request in order to establish the consummation of such transactions and the taking of all proceedings in connection therewith.

## **ARTICLE VIII SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION**

### ***Section 8.1 Survival of Representations.***

(a) Except as set forth in paragraph (b) below, the respective representations and warranties of the parties contained in this Agreement or in any Schedule or certificate delivered pursuant to this Agreement shall survive the purchase and sale of the Shares pursuant to this Agreement until June 30, 2010.

(b) The representations and warranties contained in:

(i) Section 3.1 (Ownership of Shares), Section 3.3 (Authority and Enforceability), Section 3.5 (Capitalization), Section 3.6 (Subsidiaries and Investments) and Section 3.29 (Brokers' or Finders' Fees) shall survive indefinitely.

(ii) Section 3.15 (Taxes) and Section 3.23 (Employee Benefit Plans) shall survive until sixty (60) days after the expiration of the applicable statute of limitations period (after giving effect to any waivers and extensions thereof).

(iii) Section 3.24 (Environmental Matters) shall survive until December 31, 2014.

### ***Section 8.2 Indemnification.***

(a) The Shareholders severally agree to indemnify and hold the Purchaser and its Affiliates and their respective stockholders, officers, directors, employees, agents, successors and assigns, harmless from and against any damages, losses, liabilities, obligations, claims of any kind, interest or expenses (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "**Losses**"), suffered, incurred or paid, directly or indirectly, through application of the Purchaser's assets or otherwise, as a result of, in connection with or arising out of (i) the failure of any representation or warranty made by the Shareholders in this Agreement to be true and correct in all respects as of the date of this Agreement and as of the Closing Date, (ii) any breach by the Shareholders or the Company of any of their respective covenants or agreements contained herein, and (iii) the Indebtedness (other than to the extent reflected in the calculation of the Purchase Price).

(b) The Purchaser agrees to indemnify and hold the Shareholders and their respective Affiliates and their respective trustees, agents, successors and assigns, harmless from and against any Losses, suffered, incurred or paid, directly or indirectly, through application of the Shareholders' assets or otherwise, as a result of, in connection with or arising out of (i) the failure of any representation or warranty made by the Purchaser in this Agreement to be true and correct in all respects as of the date of this Agreement and as of the Closing Date and (ii) any breach by the Purchaser of any of its covenants or agreements contained herein.

(c) The obligations to indemnify and hold harmless pursuant to Sections 8.2(a) and 8.2(b) shall survive the consummation of the transactions contemplated by this Agreement for the time periods set forth in Section 8.1, except for claims for indemnification asserted prior to the end of such periods, which claims shall survive until final resolution thereof.

(d) The obligations to indemnify and hold harmless pursuant to Sections 8.2(a)(i) and 8.2(b)(i) shall be limited to an aggregate amount of **FIVE MILLION DOLLARS (\$5,000,000)**, except that this limitation shall not apply to Losses which arise from a breach of representations and warranties contained in Section 3.1 (Ownership of Shares), Section 3.3 (Authority and Enforceability), Section 3.5 (Capitalization), Section 3.15 (Taxes) and Section 3.29 (Brokers or Finders' Fees), or which arises from fraud. No Person shall be entitled to recovery for Losses pursuant to Sections 8.2(a)(i) or 8.2(b)(i) until the total amount of Losses exceeds **THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000)** (the "**Deductible Amount**"); provided, that to the extent the amount of Losses exceeds the Deductible Amount, the Indemnified Party shall be entitled to recover only the amount of Losses in excess of the Deductible Amount; provided, further, that, the Deductible Amount shall not apply to Losses which arise from a breach of representations and warranties contained in Section 3.1 (Ownership of Shares), Section 3.3 (Authority and Enforceability), Section 3.5 (Capitalization), Section 3.15 (Taxes) and Section 3.29 (Brokers or Finders' Fees), or which arises from fraud.

(e) The Shareholders shall not have any rights, hereunder or otherwise, to indemnification or contribution from the Company with respect to any matter, and each Shareholder hereby releases the Company from any liability arising out of or in connection with any such claim; provided, however, that the foregoing release is not intended to affect in any way the Shareholders' right to be indemnified by the Purchaser pursuant to Section 8.2(b).

(f) The Purchaser agrees to indemnify the Shareholders for any additional tax due in the event that the Purchaser or any taxing authority changes the character of an asset allocated on IRS Form 8883 attached hereto as Schedule 5.13.

### ***Section 8.3 Indemnification Procedure.***

(a) Within a reasonable period of time after the incurrence of any Losses by any Person entitled to indemnification pursuant to Section 8.2 hereof (an "**Indemnified Party**"), including, any claim by a third party described in Section 8.4, which might give rise to indemnification hereunder, the Indemnified Party shall deliver to the party from whom indemnification is sought (the "**Indemnifying Party**") a certificate (the "**Certificate**"), which Certificate shall:

(i) state that the Indemnified Party has paid or properly accrued Losses or anticipates that it will incur liability for Losses for which such Indemnified Party is entitled to indemnification pursuant to this Agreement; and



(ii) specify in reasonable detail each individual item of Loss included in the amount so stated, the date such item was paid or properly accrued, the basis for any anticipated liability and the nature of the misrepresentation, breach of warranty, breach of covenant or claim to which each such item is related and the computation of the amount to which such Indemnified Party claims to be entitled hereunder.

(b) In the event that the Indemnifying Party shall object to the indemnification of an Indemnified Party in respect of any claim or claims specified in any Certificate, the Indemnifying Party shall, within twenty (20) days after receipt by the Indemnifying Party of such Certificate, deliver to the Indemnified Party a notice to such effect and the Indemnifying Party and the Indemnified Party shall, within the twenty (20) day period beginning on the date of receipt by the Indemnified Party of such objection, attempt in good faith to agree upon the rights of the respective parties with respect to each of such claims to which the Indemnifying Party shall have so objected. If the Indemnified Party and the Indemnifying Party shall succeed in reaching agreement on their respective rights with respect to any of such claims, the Indemnified Party and the Indemnifying Party shall promptly prepare and sign a memorandum setting forth such agreement. Should the Indemnified Party and the Indemnifying Party be unable to agree as to any particular item or items or amount or amounts, then the Indemnified Party and the Indemnifying Party shall submit such dispute to a court of competent jurisdiction. The party which receives a final judgment in such dispute shall be indemnified and held harmless for all reasonable attorney and consultant's fees or expenses by the other party.

(c) Claims for Losses specified in any Certificate to which an Indemnifying Party shall not object in writing within twenty (20) days of receipt of such Certificate, claims for Losses covered by a memorandum of agreement of the nature described in Section 8.3(b), claims for Losses the validity and amount of which have been the subject of judicial determination as described in Section 8.3(b) and claims for Losses the validity and amount of which shall have been the subject of a final judicial determination, or shall have been settled with the consent of the Indemnifying Party, as described in Section 8.4, are hereinafter referred to, collectively, as "**Agreed Claims.**" Within twenty (20) days of the determination of the amount of any Agreed Claims, the Indemnifying Party shall pay to the Indemnified Party an amount equal to the Agreed Claim by wire transfer in immediately available funds to the bank account or accounts designated by the Indemnified Party in a notice to the Indemnifying Party not less than three (3) Business Days prior to such payment.

**Section 8.4 Third Party Claims.** If a claim by a third party is made against any Indemnified Party, and if such Indemnified Party intends to seek indemnity with respect thereto under this Article VIII, such Indemnified Party shall promptly notify the Indemnifying Party of such claims pursuant to Section 8.3; provided, that the failure to so notify shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent that the Indemnifying Party is actually and materially prejudiced thereby. The Indemnifying Party shall have thirty (30) days after receipt of such notice to assume the conduct and control, through counsel reasonably acceptable to the Indemnified Party at the expense of the Indemnifying Party, of the settlement or defense thereof; provided, that (i) the Indemnifying Party shall permit the Indemnified Party to participate in such settlement or defense through counsel chosen by such Indemnified Party, provided that the fees and expenses of such counsel shall be borne by such Indemnified Party and (ii) the Indemnifying Party shall promptly be entitled to assume the defense of such

action only to the extent the Indemnifying Party acknowledges its indemnity obligation and assumes and holds such Indemnified Party harmless from and against the full amount of any Loss resulting therefrom; provided, further, that the Indemnifying Party shall not be entitled to assume control of such defense and shall pay the reasonable fees and expenses of counsel retained by the Indemnified Party if (i) the parties agree, reasonably and in good faith, that such third-party claim would give rise to Losses which are more than twice the amount indemnifiable by such Indemnifying Party pursuant to this Article VIII; (ii) the claim for indemnification relates to or arises in connection with any criminal Proceeding, action, indictment, allegation or investigation; (iii) the claim seeks an injunction or equitable relief against the Indemnified Party; (iv) the Indemnified Party has been advised in writing by counsel that a reasonable likelihood exists of a conflict of interest between the Indemnifying Party and the Indemnified Party; (v) the Indemnified Party reasonably believes an adverse determination with respect to the action, lawsuit, investigation, Proceeding or other claim giving rise to such claim for indemnification would be detrimental to or injure the Indemnified Party's reputation or future business prospects; or (vi) upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend such claim. Any Indemnified Party shall have the right to employ separate counsel in any such action or claim and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the Indemnifying Party unless (i) the Indemnifying Party shall have failed, within a reasonable time after having been notified by the Indemnified Party of the existence of such claim as provided in the preceding sentence, to assume the defense of such claim, (ii) the employment of such counsel has been specifically authorized in writing by the Indemnifying Party, which authorization shall not be unreasonably withheld, or (iii) the named parties to any such action (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party and such Indemnified Party shall have been advised in writing by such counsel that there may be one or more legal defenses available to the Indemnified Party which either are not available to the Indemnifying Party, or are available to the Indemnifying Party but the assertion of which would be adverse to the interests of the Indemnified Party. So long as the Indemnifying Party is reasonably contesting any such claim in good faith, the Indemnified Party shall not pay or settle any such claim. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such claim, provided that in such event it shall waive any right to indemnity therefor by the Indemnifying Party for such claim unless the Indemnifying Party shall have consented to such payment or settlement. If the Indemnifying Party does not notify the Indemnified Party within thirty (30) days after the receipt of the Indemnified Party's notice of a claim of indemnity hereunder that it elects to undertake the defense thereof, the Indemnified Party shall have the right to contest, settle or compromise the claim but shall not thereby waive any right to indemnity therefor pursuant to this Agreement. The Indemnifying Party shall not, except with the consent of the Indemnified Party, enter into any settlement that is not entirely indemnifiable by the Indemnifying Party pursuant to this Article VIII and does not include as an unconditional term thereof the giving by the Person or Persons asserting such claim to all Indemnified Parties of an unconditional release from all liability with respect to such claim or consent to entry of any judgment. The Indemnifying Party and the Indemnified Party shall cooperate with each other in all reasonable respects in connection with the defense of any claim, including making available records relating to such claim and furnishing, without expense to the Indemnifying Party and/or its counsel, such employees of the Indemnified Party as may be reasonably necessary for the preparation of the defense of any such claim or for testimony as witnesses in any Proceeding relating to such claim.

**Section 8.5 Set-Offs Against the Notes.** Subject to the indemnification procedures set forth in Section 8.3 and Section 8.4, respectively, an Indemnified Party shall seek reimbursement for any indemnification claim against the Shareholders under Section 8.2(a) to the extent of the amounts remaining unpaid under the Promissory Notes.

## ARTICLE IX TERMINATION

**Section 9.1 Termination Events.** This Agreement may, by notice given prior to or at the Closing, be terminated:

- (a) by either the Purchaser, on the one hand, or the Shareholders, on the other hand, if a material breach of any provision of this Agreement has been committed by the other party and such breach has not been waived;
- (b) by the Purchaser if any of the conditions in Article VI have not been satisfied as of the Closing Date or if satisfaction of such condition is or becomes impossible (other than through the failure of the Purchaser to comply with its obligations under this Agreement) and the Purchaser has not waived such condition on or before Closing;
- (c) by the Shareholders if any of the conditions in Article VII have not been satisfied as of the Closing Date or if satisfaction of such condition is or becomes impossible (other than through the failure of the Shareholders to comply with its obligations under this Agreement) and the Shareholders have not waived such condition on or before Closing;
- (d) by the mutual consent of the Purchaser and the Shareholders; or
- (e) by either the Purchaser or the Shareholders if the Closing has not occurred (excluding a delay resulting from the failure of the party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before January 31, 2009, or such later date as the parties may agree upon.

**Section 9.2 Effect of Termination.** Each party's right of termination under Section 9.1 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Except for the obligations contained in Section 5.11, if this Agreement is terminated pursuant to Section 9.1, all further obligations of the parties under this Agreement will terminate; provided, however, that if this Agreement is terminated by a party because of the breach of the Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with all of its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired. Notwithstanding the foregoing, if the Agreement is terminated pursuant to Section 9.1(e), termination shall be the sole and exclusive remedy and no party shall have any additional rights or remedies available to it.

**ARTICLE X  
MISCELLANEOUS**

**Section 10.1 Expenses.** Whether or not the transactions contemplated by this Agreement are consummated, the parties hereto shall pay all of their own expenses relating to the transactions contemplated by this Agreement, including the fees and expenses of their respective counsel and financial advisers.

**Section 10.2 Governing Law.** The interpretation and construction of this Agreement, and all matters relating hereto, shall be governed by the laws of the State of Florida applicable to agreements executed and to be performed solely within such State, without regard to principles of conflicts of law of any jurisdiction.

**Section 10.3 Table of Contents; Captions.** The table of contents and the Article and Section captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

**Section 10.4 Notices.** Any notice or other communication required or permitted under this Agreement shall be deemed to have been duly given (i) five (5) Business Days following deposit in the mails if sent by registered or certified mail, postage prepaid, (ii) when sent, if sent by facsimile transmission, if receipt thereof is confirmed by telephone, (iii) when delivered, if delivered personally to the intended recipient and (iv) two (2) Business Days following deposit with a nationally recognized overnight courier service, in each case addressed as follows:

if to the Shareholders, a single notice addressed to the Shareholders' Representative:

Luis R. Mola  
2509 Castilla Isle  
Fort Lauderdale, FL 33301  
Telephone: (954) 462-0975

with a copy to:

Akerman Senterfitt  
One S.E. Third Avenue  
Miami, FL 33131  
Telephone: (305) 374-5600  
Facsimile: (305) 374-5095  
Attn: Stephen K. Roddenberry, Esq.

and if to the Purchaser, to

Astronics Corporation  
130 Commerce Way  
East Aurora, NY 14052  
Telephone: (716) 805-1599  
Facsimile: (716) 655-0309  
Attn: Chief Financial Officer

with a copy to

Hodgson Russ LLP  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, NY 14202-4040  
Telephone: (716) 856-4000  
Facsimile: (716) 849-0349  
Attn: Robert J. Olivieri, Esq.

or such other address or number as shall be furnished in writing by any such party.

**Section 10.5 Assignment; Parties in Interest.** This Agreement may not be transferred, assigned, pledged or hypothecated by any party hereto without the express written consent of the other party hereto, other than by operation of law; provided, that the Purchaser may assign its rights, interests and obligations hereunder to any direct or indirect wholly owned Subsidiary or to any Affiliate. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

**Section 10.6 Counterparts; Facsimile Signatures.** This Agreement may be executed in two (2) or more counterparts, all of which taken together shall constitute one (1) instrument. The parties agree that this Agreement may be executed by facsimile transmission and that the reproduction of signatures by facsimile or similar device shall be treated as binding as if originals, and each party agrees and undertakes to provide the other party with a copy of the Agreement bearing original signatures forthwith upon demand by the other party.

**Section 10.7 Entire Agreement; Amendments.** This Agreement, including the Schedules and the Exhibits hereto, and the other documents referred to herein which form a part hereof, contains the entire understanding of the parties hereto with respect to the subject matter contained herein and therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter. This Agreement may not be changed, and any of the terms, covenants, representations, warranties and conditions cannot be waived, except pursuant to an instrument in writing signed by the Purchaser and the Shareholders or, in the case of a waiver, by the party waiving compliance.

**Section 10.8 Severability.** If any term, provision, agreement, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, agreements, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby may be consummated as originally contemplated to the fullest extent possible.

**Section 10.9 Independence of Covenants and Representations and Warranties.** All covenants hereunder shall be given independent effect so that if a certain action or condition constitutes a default under a certain covenant, the fact that such action or condition is permitted by another covenant shall not affect the occurrence of such default, unless expressly permitted under an exception to such initial covenant. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness or a breach of such initial representation or warranty.

**Section 10.10 Third-Party Beneficiaries.** Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the parties hereto.

**Section 10.11 No Strict Construction.** The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by all parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

**Section 10.12 Waiver of Jury Trial.** The Purchaser and the Shareholders hereby waive, to the fullest extent permitted by applicable Law, any right it may have to a trial by jury in respect of any litigation as between the parties directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated hereby or disputes relating hereto. Purchaser and each Shareholder (i) certify that no representative, agent or attorney of the 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 (ii) acknowledge that it and the other party have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 10.12.

***Section 10.13 Shareholders' Representative.***

(a) By the execution and delivery of this Agreement, each Shareholder hereby irrevocably constitutes and appoints Luis R. Mola (or Ramon A. Rodriguez in the event that Luis R. Mola is unable to act hereunder) as the true and lawful agent and attorney-in-fact ("***Shareholders' Representative***") of the Shareholders with full power of substitution to act in the name, place and stead of the Shareholders with respect to the sale of the Shares in accordance with the terms and provisions of this Agreement, and to act on behalf of the Shareholders in any litigation or arbitration involving this Agreement, do or refrain from doing all such further acts and things, and execute all such documents as Shareholders' Representative shall deem necessary or appropriate in connection with the transactions contemplated by this Agreement, including, without limitation, the power:

(i) to act for the Shareholders with regard to matters pertaining to indemnification referred to in this Agreement, including the power to compromise any indemnity claim on behalf of the Shareholders and to transact matters of litigation;

(ii) to execute and deliver all ancillary agreements, certificates and documents that Shareholders' Representative deems necessary or appropriate in connection with the consummation of the transactions contemplated by this Agreement;

(iii) to receive funds and give receipts for funds, including in respect of any Purchase Price payments and adjustments to the Purchase Price;

(iv) to do or refrain from doing any further act or deed on behalf of the Shareholders that the Shareholders' Representative deems necessary or appropriate in his sole discretion relating to the subject matter of this Agreement as fully and completely as the Shareholders could do if personally present; and

(v) to receive service of process in connection with any claims under this Agreement.

(b) The appointment of the Shareholders' Representative shall be deemed coupled with an interest and shall be irrevocable, and the Purchaser and any other Person may conclusively and absolutely rely, without inquiry, upon any action of the Shareholders' Representative in all matters referred to herein. All notices required to be made or delivered by the Purchaser to the Shareholders shall be made to the Shareholders' Representative for the benefit of the Shareholders and shall discharge in full all notice requirements of the Purchaser to the Shareholders with respect thereto.

(c) If any Shareholder should die or become incapacitated, if any trust or estate should terminate or if any other such event should occur, any action taken by the Shareholders' Representative pursuant to this Section 10.13 shall be as valid as if such death or incapacity, termination or other event had not occurred, regardless of whether or not such Shareholder or the Purchaser shall have received notice of such death, incapacity, termination or other event.

*[signature page follows]*

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

***PURCHASER:***

**ASTRONICS CORPORATION**

By: /s/ David C. Burney  
Name: David C. Burney  
Title: Vice President — Finance,  
Chief Financial Officer & Treasurer

***COMPANY:***

**D M E CORPORATION**

By: /s/ Luis Mola  
Name: Luis Mola  
Title: President



**SHAREHOLDERS:**

**LUIS R. MOLA REVOCABLE TRUST**

By: /s/ Luis Mola  
Name: Luis Mola  
Title: Trustee

**ANA M. MOLA REVOCABLE TRUST**

By: /s/ Ana Mola  
Name: Ana Mola  
Title: Trustee

**MOLA 1999 FAMILY IRREVOCABLE TRUST  
f/b/o MARIA FRAXEDAS**

By: /s/ Ana Mola  
Name: Ana Mola  
Title: Trustee

**MOLA 1999 FAMILY IRREVOCABLE TRUST  
f/b/o ANA FALOWSKI**

By: /s/ Ana Mola  
Name: Ana Mola  
Title: Trustee

**MOLA 1999 FAMILY IRREVOCABLE TRUST  
f/b/o ISABEL MOLA**

By: /s/ Ana Mola  
Name: Ana Mola  
Title: Trustee

**RAMON A. RODRIGUEZ REVOCABLE TRUST**

By: /s/ Ramon A. Rodriguez  
Name: Ramon A. Rodriguez  
Title: Trustee

**RAMON A. RODRIGUEZ FAMILY TRUST**

By: /s/ Ramon A. Rodriguez  
Name: Ramon A. Rodriguez  
Title: Trustee

***SHAREHOLDERS REPRESENTATIVE:***

/s/ Luis Mola  
**LUIS R. MOLA**

**AMENDED AND RESTATED  
CREDIT AGREEMENT**

— Among —

**ASTRONICS CORPORATION  
as Borrower**

— And —

**The Lenders Party Hereto**

**and**

**HSBC BANK USA, NATIONAL ASSOCIATION  
as Agent, Swingline Lender, and Issuing Bank**

**and**

**HSBC BANK USA, NATIONAL ASSOCIATION  
BANK OF AMERICA, N.A.  
as Lead Arrangers**

**and**

**KEYBANK NATIONAL ASSOCIATION  
as Documentation Agent**

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**DATED: As of January 30, 2009**

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This **AMENDED AND RESTATED CREDIT AGREEMENT** dated as of January 30, 2009 between **ASTRONICS CORPORATION**, a New York corporation with its principal place of business at 130 Commerce Way, East Aurora, New York 14052 (“Borrower”) and the several banks and other financial institutions from time to time party to this Agreement (individually, a “Lender” and collectively, the “Lenders”) and **HSBC BANK USA, NATIONAL ASSOCIATION**, a national banking association organized under the laws of the United States of America with an office at Commercial Banking Department, One HSBC Center, Buffalo, New York 14203 as Agent for the Lenders, Swingline Lender, Issuing Bank and a Lead Arranger, **BANK OF AMERICA, N.A.** as a Lead Arranger, and **KEYBANK NATIONAL ASSOCIATION** as Documentation Agent.

## **ARTICLE I. DEFINITIONS**

**1.1 Definitions.** As used in this Credit Agreement, unless otherwise specified, the following terms shall have the following respective meanings:

“**ABR**” or “**Alternate Base Rate**” — For any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (i) the Prime Rate, (ii) the Federal Funds Effective Rate from time to time in effect plus 0.5%, or (iii) the Libor Rate for a one-month period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Libor Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Libor Rate, respectively.

“**ABR Loan**” — Any Loan for which interest is calculated based on the Alternate Base Rate plus the Applicable Margin determined from time to time.

“**ABR Option**” — The Rate Option in which interest is based upon the Alternate Base Rate plus the Applicable Margin for the applicable Loan.

“**Affiliate**” or “**Affiliates**” — Individually or collectively, any Person that directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under Common Control with the Person specified. Notwithstanding the foregoing, no individual shall be considered an Affiliate of a Person solely by reason of such individual’s position as an officer or director of such Person or of an Affiliate of such Person, and neither the Agents nor any Lender shall be considered an Affiliate of Borrower or any of Borrower’s Subsidiaries.

“**Agent**” — HSBC Bank USA, National Association and any successor thereto appointed pursuant to the terms of this Agreement.

“**Agreement**” — This Credit Agreement, as the same may from time to time be amended, restated, supplemented or otherwise modified.

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**“Anti-Terrorism Laws”** — Any laws relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department’s Office of Foreign Asset Control (as any of the forgoing laws may from time to time be amended, renewed, extended or replaced).

**“Applicable Commitment Fee Rate”** — (i) Initially, until changed in accordance with the following provisions, the Applicable Commitment Fee Rate shall be 0.375%; and (ii) commencing with the fiscal quarter of Borrower ended on March 31, 2009, and continuing with each fiscal quarter thereafter, the Agent shall determine the Applicable Commitment Fee Rate in accordance with the following matrix, based on the Leverage Ratio:

<b>Level</b>	<b>Leverage Ratio</b>	<b>Commitment Fee</b>
1	< 1.50 to 1.0	0.300%
2	≥ 1.50 to 1.0 but < 2.00 to 1.0	0.375%
3	≥ 2.00 to 1.0 but < 2.50 to 1.0	0.500%
4	≥ 2.50 to 1.0	0.500%

In no event will the Applicable Commitment Fee Rate be lower than Level 2 until the end of Borrower’s second full fiscal quarter following the Closing Date. Changes in the Applicable Commitment Fee Rate shall become effective three (3) Business Days immediately following the date of delivery by Borrower to the Agent of a financial statement and a Compliance Certificate required to be delivered pursuant to Sections 5.2(a) and (b) of this Agreement, and shall be based upon the Leverage Ratio in effect at the end of the financial period covered by such financial statement and Compliance Certificate. Notwithstanding the foregoing provisions, during any period when the Borrower has failed to deliver such a financial statement and Compliance Certificate when due, the Applicable Commitment Fee Rate shall be applied at Level 4 above as of the first Business Day after the date on which such financial statement and Compliance Certificate were required to be delivered, regardless of the Leverage Ratio at such time, until the date the required financial statement and Compliance Certificate have been delivered. Any changes in the Applicable Commitment Fee Rate shall be determined by the Agent in accordance with the provisions set forth in this definition and the Agent will promptly provide notice of such determinations to the Borrower and the Lenders. Any such determination by the Agent shall be conclusive absent manifest error.

**“Applicable Lending Office”** — With respect to each Lender, such Lender’s Domestic Lending Office in the case of an ABR Loan and such Lender’s Libor Lending Office in the case of a Libor Loan.

**“Applicable Margin”** — (i) Initially, until changed in accordance with the following provisions, the Applicable Margin shall be 1.75% for ABR Loans and 2.75% for Libor Loans; (ii) commencing with the fiscal quarter of Borrower ended on March 31, 2009, and continuing with each fiscal quarter thereafter, the Agent shall determine the Applicable Margin in accordance with the following matrix, based on the Leverage Ratio:

<u>Level</u>	<u>Leverage Ratio</u>	<u>Libor Rate Option</u>	<u>ABR Option</u>
1	< 1.50 to 1.0	2.25%	1.25%
2	≥ 1.50 to 1.0 but < 2.00 to 1.0	2.75%	1.75%
3	≥ 2.00 to 1.0 but < 2.50 to 1.0	3.00%	2.00%
4	≥ 2.5 to 1.0	3.50%	2.50%

In no event will the Applicable Margin be lower than Level 2 until the end of Borrower’s second full fiscal quarter after the Closing Date. Changes in the Applicable Margin shall become effective three (3) Business Days immediately following the date of delivery by Borrower to the Agent of a financial statement and a Compliance Certificate required to be delivered pursuant to Sections 5.2(a) and (b) of this Agreement, and shall be based upon the Leverage Ratio in effect at the end of the financial period covered by such financial statement and Compliance Certificate. Notwithstanding the foregoing provisions, during any period when the Borrower has failed to deliver such financial statement and Compliance Certificate when due, the Applicable Margin shall be applied at Level 4 above as of the first Business Day after the date on which such financial statement and Compliance Certificate were required to be delivered, regardless of the Leverage Ratio at such time, until the date the required financial statement and Compliance Certificate have been delivered. Any changes in the Applicable Margin shall be determined by the Agent in accordance with the provisions set forth in this definition and the Agent will promptly provide notice of such determinations to the Borrower and the Lenders. Any such determination by the Agent shall be conclusive absent manifest error.

**“Applicable Percentage”** — With respect to any Lender, at any time, the percentage of the total Commitments for all Lenders represented by such Lender’s Commitment. Each Lender’s initial Applicable Percentage based on the total Commitment as of the Closing Date is set forth on Schedule 2.1 to this Agreement. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the total Commitment most recently in effect, giving effect to any assignments.

**“Asset Sale”** — The sale, lease, transfer or other disposition (including by means of sale and lease-back transactions, and by means of mergers, consolidations, amalgamations and liquidations of a corporation, partnership or limited liability company of the interests therein of Borrower or any Subsidiary) by Borrower or any Subsidiary to any Person of Borrower’s or such Subsidiary’s respective assets, including, without limitation, the sale of any Equity Interests in any Subsidiary, provided that the term Asset Sale specifically excludes (i) any sales, transfers or other dispositions of inventory, or obsolete, worn-out or excess furniture, fixtures, equipment or other property, real or personal, tangible or intangible, in each case in the ordinary course of business; (ii) any actual or constructive total loss of property or the use thereof, resulting from destruction, damage beyond repair or other rendition of such property as permanently unfit for normal use from any casualty or similar occurrence whatsoever; (iii) the destruction or damage of a portion of such property from any casualty or similar occurrence whatsoever under circumstances in which such damage cannot reasonably be expected to be repaired, or such property cannot reasonably be expected to be restored to its condition immediately prior to such destruction or damage, within ninety (90) days after the occurrence of such destruction or damage or such longer reasonable time period as determined under the Borrower’s plan of restoration or replacement for such property established within a 90 day period after such occurrence provided such plan is acceptable to the Agent in its reasonable judgment; (iv) the condemnation, confiscation or seizure of, or requisition of title to or use of any property; or (v) in the case of any unmovable property located upon a leasehold, the termination or expiration of such leasehold.

**“Assignment and Assumption”** — An assignment and assumption agreement entered into by a Lender and an assignee and accepted by the Agent, substantially in the form of Exhibit F hereto with all blanks appropriately completed.

**“Astronics Advanced”** — Astronics Advanced Electronic Systems Corp., a Washington corporation, and a Domestic Subsidiary of the Borrower.

**“Authorized Officer”** — With respect to Borrower or any Guarantor, any of the following officers: the Chairman, the President, any Vice President, the Chief Executive Officer, the Chief Financial Officer or the Treasurer, or such other Person as is authorized in writing to act on behalf of Borrower and is acceptable to the Agent. Unless otherwise qualified, all references herein to an Authorized Officer shall refer to an Authorized Officer of the Borrower.

**“Available Amount”** — With respect to any Letter of Credit issued in Dollars, the stated or face amount of such Letter of Credit to the extent available at the time for drawing (subject to presentment of all requisite documents) as the same may be increased or decreased from time to time in accordance with the terms of such Letter of Credit.

**“Availability Period”** — The period from the Closing Date to, but excluding, the earlier of the Revolving Credit Maturity Date and the date of termination of the Revolving Credit Commitments.

**“Borrower”** — As defined in the opening paragraph to this Agreement.

**“Borrower Collateral”** — As defined in Section 3.4(e) of this Agreement.

**“Borrower Financing Statements”** — As defined in Section 3.4(e) of this Agreement.

**“Borrower Security Agreement”** — As defined in Section 3.4(e) of this Agreement.

**“Breakage Fee”** — An amount determined by the applicable Lender at the time of a prepayment of a Libor Loan to be equal to the sum of the costs, losses, expenses and penalties incurred by such Lender as a result of such prepayment; any loss to any Lender shall be deemed to be 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 Libor Loan had such event not occurred, for the period from the date of such event to the last day of the then current Interest Period therefor, 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 of Dollars of a comparable amount and period from other banks in the London Interbank Market. Any Lender’s calculation of any Breakage Fee shall be conclusive absent manifest error.

**“Business Day”** — (a) For all purposes other than as set forth in clause (b) of this definition, any day excluding Saturday, Sunday and any day on which banks in New York City are authorized by law or other governmental action to close, and (b) with respect to Libor Loans, any day which is a Business Day described in clause (a) and which is also a day for trading by and between banks in U.S. dollar deposits in the London Interbank Eurodollar Market.

**“Capital Lease”** — As applied to any Person means any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, should be accounted for as a capital lease on the balance sheet of that Person.

**“Capital Lease Obligations”** — All obligations under Capital Leases of the Borrower or any of its Subsidiaries, without duplication, in each case taken at the amount thereof accounted for as liabilities identified as “capital lease obligations” (or any similar words) on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP.

**“Change of Control”** — (i) The occupation of a majority of the seats (other than vacant seats) on the board of directors of Borrower by Persons who were neither (A) nominated by the Board of Directors of Borrower nor (B) appointed by directors so nominated; (ii) the acquisition of, or, if earlier, the shareholder or director approval of the acquisition of, ownership or voting control, directly or indirectly, beneficially or of record, on or after the date of this Agreement, by any Person or group (within the meaning of Rule 13d-3 of the SEC under the 1934 Act, as then in effect), other than Kevin Keane and his estate and Immediate Family (as defined below) taken as a whole, of shares representing more than 20% of the aggregate ordinary power to vote for the election of directors represented by the issued and outstanding capital stock of Borrower; or (iii) the occurrence of a change in control, or other similar provision, under or with respect to any agreement evidencing Material Indebtedness. As used herein, “Immediate Family” means Kevin Keane’s spouse, children and siblings.

**“Closing Date”** — January 30, 2009.

**“Code”** — The Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and the rulings issued thereunder. Section references to the Code are to the Code as in effect on the date of this Agreement and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.

**“Collateral”** — Collectively, the Borrower Collateral and the Guarantor Collateral.

**“Collateral Documents”** — Collectively, the Security Agreements, any Mortgage, any Guaranty and the Financing Statements.

**“Commitments” or “Commitment”** — (a) For all Lenders, the aggregate of the Total Revolving Credit Commitment and Total Term Loan Commitment, and (b) for each Lender, the aggregate of such Lender’s Revolving Credit Commitment and Term Loan Commitment.

**“Commitment Fee”** — As defined in Section 2.12 of this Agreement.

**“Compliance Certificate”** — A certificate of the Borrower substantially in the form of Exhibit D hereto with all blanks appropriately completed.

**“Confidential Information Materials”** — The collective reference to the confidential information with respect to the Borrower and the revolving credit facility evidenced by the Existing Facility, together with the information provided by, or on behalf of, the Borrower to the Lenders in connection with this Agreement and the acquisition by Borrower of all of the stock of D M E.

**“Consideration”** — In connection with an acquisition, the aggregate consideration paid, including borrowed funds, cash, the issuance of securities or notes, the assumption or incurring of liabilities (direct or contingent), excluding however trade payables and short term accruals in the ordinary course of business, the payment of consulting fees (excluding any fees payable to any investment banker in connection with such acquisition) or fees for a covenant not to compete and any other consideration paid for the purchase.

**“Consolidated” or “Consolidated Basis”** — The consolidation of the accounts of any entity and its Subsidiaries in accordance with GAAP, including principles of consolidation, consistent with those applied in the preparation of the consolidated audited financial statements of Borrower delivered to the Lenders.

**“Consolidated Capital Expenditures”** — For any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events amounts expended or capitalized under Capital Leases and Synthetic Leases but excluding any amount representing capitalized interest) of Borrower and all Subsidiaries during such period determined on a Consolidated Basis that may properly be classified as capital expenditures in conformity with GAAP, provided that such term shall not include any such expenditure in connection with replacement or repair of assets to the extent that casualty insurance proceeds or the trade-in value of other equipment were used for such expenditure.

**“Consolidated EBITDA”** — For any period, an amount equal to (i) the sum of the amounts for such period of (A) Consolidated Net Income, (B) Consolidated Interest Expense, (C) provisions for taxes based on income, (D) total depreciation expense, (E) total amortization expense and (F) other non-cash items reducing Consolidated Net Income minus (ii) other non-cash items increasing Consolidated Net Income for such period; provided, however extraordinary gains, whether cash or non-cash, shall not be included in the Calculation of Consolidated EBITDA. Notwithstanding anything to the contrary in this definition, for purposes of computing the Leverage Ratio and Fixed Charge Coverage Ratio hereunder, or in connection with any pro-forma calculation required by this Agreement, the term “Consolidated EBITDA” shall be computed, on a consistent basis, to reflect purchases and acquisitions by Permitted Acquisition or otherwise, and Asset Sales of a business entity or assets constituting a business line or division, made by Borrower and the Subsidiaries during the relevant period as if they occurred at the beginning of such period, and Borrower, during the twelve (12) month period following the date of any such Permitted Acquisition may include in the calculation hereof the necessary portion of the adjusted historical results of the entities acquired in acquisitions that were achieved prior to the applicable date of the acquisition for such time period as is necessary for Borrower to have figures on a Rolling Four-Quarter Basis from the date of determination with respect to such acquired entities.

**“Consolidated Interest Expense”** — For any period, total interest expense (including, without limitation, that which is capitalized and that which is attributable to Capital Leases or Synthetic Leases) of the Borrower and its Subsidiaries on a consolidated basis with respect to all outstanding indebtedness of the Borrower and its Subsidiaries, including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and net costs under hedge agreements computed on a net basis after reduction for any interest income, and excluding amortization of discount and amortization of debt issuance costs.

**“Consolidated Net Income”** — For any period, the net income (or loss) of the Borrower and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP.

**“Consolidated Net Worth”** — At any time, all amounts that, in conformity with GAAP, would be included under the caption “total stockholders’ equity” (or any like caption) on a consolidated balance sheet of the Borrower at such time.

**“Consolidated Total Assets”** — At any date of determination, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total assets” (or a similar caption) on a Consolidated balance sheet of Borrower and all Subsidiaries at such date.

**“Consolidated Total Funded Debt”** — The sum (without duplication) of all Indebtedness of the Borrower and its Subsidiaries for borrowed money, all as determined on a Consolidated Basis.

**“Contingent Obligation”** — Of a Person means any agreement, undertaking or arrangement by which such Person assumes, guaranties, endorses, contingently agrees to purchase or provide funds for the payment of, or otherwise becomes or is contingently liable upon, the obligation or liability of any other Person, or agrees to maintain the net worth or working capital or other financial condition of any other Person, or otherwise assures any creditor of such other Person against loss, including, without limitation, any comfort letter, operating agreement or take-or-pay contract. The amount of any Contingent Obligation shall be equal to the amount of the obligation that is so guarantied or supported that is actually outstanding or otherwise due and payable from time to time, if a fixed and determinable amount or if there is no fixed or determinable amount, either (x) if a maximum amount is guaranteed, the maximum amount or (y) if there is no maximum amount, the amount of the obligation that is so guarantied or supported.

**“Control”, “Controlling”, “Controlled by”, and “under Common Control with”** — The possession, directly or indirectly, of the power to either (i) vote 50% or more of the Equity Interests having voting power for the election of directors, or persons performing similar functions, of a Person or (ii) direct or cause the direction of the management and policies of a Person, whether by contract or otherwise; provided however, no Plan or employee stock ownership plan of Borrower shall be considered to have Control of Borrower or any Subsidiary.

**“Default”** — Any of the events specified in Article VII whether or not any requirement for the giving of notice, the lapse of time, or both, as been satisfied.

**“Default Rate”** — For any day, with respect to any Loan, a rate per annum equal to 2% per annum above the interest rate that would otherwise be applicable to such Loan and with respect to any interest, fees and any other sums due hereunder, 2% per annum above the interest rate that would be applicable to Revolving Loans that are ABR Loans pursuant to Section 2.6.

**“Defaulting Lender”** — Any Lender that (i) on any borrowing date fails to make available to the Agent such Lender’s Loans required to be made to Borrower on such borrowing date or (ii) shall not have made a payment to the Issuing Bank pursuant to Section 2.5 of this Agreement or the Agent pursuant to Section 2.1(b) or 2.3 of this Agreement. Once a Lender becomes a Defaulting Lender, such Lender shall continue as a Defaulting Lender until such time as such Defaulting Lender makes available to the Agent the amount of such Defaulting Lender’s Loans and/or to the Issuing Bank such payments requested by the Issuing Bank together with all or other amounts required to be paid to the Agent and/or the Issuing Bank pursuant to this Agreement.

**“Designated Hedge Agreement”** — Any Hedge Agreement (other than a commodities hedge agreement) to which Borrower or any Subsidiary is a party and as to which a Lender or any of its Affiliates is a counterparty that, pursuant to a written instrument signed by the Agent at the request of the Borrower or any such Lender or Affiliate, has been designated as a Designated Hedge Agreement so that Borrower’s or such Subsidiary’s counterparty’s credit exposure thereunder will be entitled to share in the benefits of the Collateral and the Collateral Documents to the extent the Collateral and such Collateral Documents provide guarantees or security for creditors of Borrower or any Subsidiary under Designated Hedge Agreements.

**“Disposal”** — The intentional or unintentional abandonment, discharge, deposit, injection, dumping, spilling, leaking, storing, burning, thermal destruction or placing of any substance so that it or any of its constituents may enter the Environment.

**“D M E”** — D M E Corporation, a Florida corporation, and, after giving effect to the use of the proceeds of the Term Loan, a Domestic Subsidiary of the Borrower.

**“Dollars”, “U.S. Dollars” or “\$”** — Lawful money of the United States of America.

**“Domestic Lending Office”** — With respect to any Lender, the office of such Lender specified as its “Domestic Lending Office” opposite its name on Schedule 2.1 hereto or in the Assignment and Assumption pursuant to which it became a Lender, as the case may be, or such other office of such Lender as such Lender may from time to time specify to the Borrower and the Agent.

**“Domestic Subsidiary”** — Any Subsidiary having any place of business located in the United States of America.

**“ECIDA Bond Projects”** — Two projects of LSI whereby LSI (i) acquired 15 acres of land in East Aurora, New York at an approximate purchase price of \$350,000; constructed a 70,000 square foot manufacturing facility thereon (“East Aurora Facility”) at a cost of approximately \$4,700,000; and purchased new equipment at a cost of approximately \$1,450,000; and (ii) constructed a 57,000 square foot addition to the East Aurora Facility, made related site improvements and acquired related equipment at a cost of approximately \$6,000,000, both of which projects were financed by means of tax-exempt bonds issued by the Erie County Industrial Development Agency.

**“ECIDA Letters of Credit”** — The presently outstanding letters of credit in the current amounts of approximately \$2,985,624 and \$6,084,000 issued by HSBC Bank for the account of the Borrower and LSI to support the ECIDA Bond Projects.

**“Eligible Assignee”** — (i) A Lender, (ii) an Affiliate of a Lender, (iii) a fund that is administered or managed by a Lender or an Affiliate of a Lender, or by an entity or an Affiliate of any entity that administers or manages a Lender, and (iv) any other Person (other than a natural Person) approved by (A) the Agent, (B) each Issuing Bank (but only in the case of any assignment with respect to the Revolving Credit), and (C) unless an Event of Default has occurred and is continuing, the Borrower (but only in the case of any assignment with respect to the Revolving Credit), each such approval not to be unreasonably withheld or delayed; provided, however, that notwithstanding the foregoing, “Eligible Assignee” shall not include the Borrower or any Guarantor or any of their Affiliates or Subsidiaries.

**“Environment”** — Any water including, but not limited to, surface water and ground water or water vapor; and land including land surface or subsurface; stream sediments; air; fish; wildlife; plants; and all other natural resources or environmental media.

**“Environmental Law”** — Any applicable Federal, state, foreign or local statute, law, rule, regulation, ordinance, code, binding and enforceable guideline, binding and enforceable written policy and rule of common law now or hereafter in effect and in each case as amended, and any binding and enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment issued to or rendered against Borrower or any Subsidiary relating to the Environment, employee health and safety or Hazardous Substances, including, without limitation, CERCLA; RCRA; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Emergency Planning and the Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq., the Hazardous Material Transportation Act, 49 U.S.C. § 5101 et seq. and the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq. (to the extent it regulates occupational exposure to Hazardous Substances); and any state and local or foreign counterparts or equivalents, in each case as amended from time to time.



**“Environmental Permits”** — All licenses, permits, approvals, authorizations, consents or registrations required by any applicable Environmental Laws and all applicable judicial and administrative orders in connection with ownership, lease, purchase, transfer, closure, use and/or operation of Borrower’s property and/or as may be required for the storage, treatment, generation, transportation, processing, handling, production or Disposal of Hazardous Substances.

**“Equity Interest”** — With respect to any Person, any and all shares, interests, participations or other equivalents, including membership interests (however designated, whether voting or non-voting) of equity of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) or any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such partnership, but in no event will Equity Interest include any debt securities convertible or exchangeable into equity unless and until actually converted or exchanged.

**“ERISA”** — The Employee Retirement Income Security Act of 1974, as amended from time to time and the regulations and rulings promulgated and issued thereunder.

**“ERISA Affiliate”** — Each Subsidiary and any trade or business (whether or not incorporated) that, together with Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(b)(1) of ERISA 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.

**“Event of Default” or “Events of Default”** — As defined in Section 7.1 of this Agreement.

**“Exchange Act”** — The Securities Exchange Act of 1934, as amended.

**“Executive Order No. 13224”** — The Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, amended, renewed, extended or replaced.

**“Existing Bonds”** — Collectively, the tax-exempt bonds issued in connection with the New Hampshire Bond Project and the ECIDA Bond Projects.

**“Existing Facility”** — The Credit Agreement dated as of May 13, 2008 among the Borrower, the Lenders, and HSBC Bank as Agent, Swingline Lender, Issuing Bank and Arranger providing for a \$60,000,000 revolving credit facility to Borrower.

**“Existing Letter of Credit”** — The existing letter of credit in the face amount of approximately U.S. \$1,031,253.40 issued by HSBC Bank to HSBC Bank Canada to secure a term loan to an Affiliate of the Borrower.

**“Federal Funds Effective Rate”** — For any day, the rate per annum (based on a year of 365 days and actual days elapsed and rounded upward to the nearest 1/100th of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the “Federal Funds Effective Rate” as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the “Federal Funds Effective Rate” for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

**“Financial Covenants”** — Collectively, the financial covenants set forth in Sections 6.13, 6.14, 6.15 and 6.16 of this Agreement or any modification, amendment or replacement thereof made after the Closing Date in accordance with Section 10.1 of this Agreement.

**“Financing Statements”** — Collectively, the Borrower Financing Statements and the Guarantor Financing Statements.

**“Fixed Charge Coverage Ratio”** — As of a calculation date, the ratio of the Borrower’s Consolidated EBITDA minus Consolidated Capital Expenditures minus cash taxes paid and dividends paid to Consolidated Interest Expense plus the amount of scheduled principal payments, but excluding any prepayments of principal, paid on long-term Indebtedness, calculated on a Rolling Four-Quarter Basis as of such calculation date.

**“Foreign Subsidiary”** — Any Subsidiary that is not a Domestic Subsidiary.

**“GAAP”** — As of the date of any determination, generally accepted accounting principles as promulgated by the Financial Accounting Standards Board and/or the American Institute of Certified Public Accountants or any successor entity or entities thereto, including, without limitation, any Public Company Accounting Oversight Board established under the Sarbanes-Oxley Act of 2002, and which are effective as of such date of determination, consistently applied and maintained throughout the relevant periods and from period to period.

**“Governmental Authority”** — 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.

**“Guarantor”** or **“Guarantors”** — Individually, each of Astronics Advanced, D M E and LSI, and collectively, all of them, and any other Subsidiary of Borrower which is required to deliver a Guaranty hereunder.

**“Guarantor Collateral”** — As defined in Section 3.4(f) of this Agreement.

**“Guarantor Financing Statements”** — As defined in Section 3.4(f) of this Agreement.

**“Guarantor Security Agreement”** — As defined in Section 3.4(f) of this Agreement.

**“Guaranty”** — A guaranty agreement in form and content reasonably satisfactory to the Agent and the Lenders evidencing the obligation of a Person to guarantee payment of any Indebtedness and any other reimbursement, payment or performance obligations of another Person which arise under this Agreement or any other Loan Document.

**“Guaranty Obligations”** — As to any Person (without duplication) any obligation of such Person guaranteeing any Indebtedness (“**primary Indebtedness**”) of any other Person (the “**primary obligor**”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent, (i) to purchase any such primary Indebtedness or any property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary Indebtedness or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary Indebtedness of the ability of the primary obligor to make payment of such primary Indebtedness, or (iv) otherwise to assure or hold harmless the owner of such primary Indebtedness against loss in respect thereof, provided, however, that the definition of Guaranty Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guaranty Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary Indebtedness in respect of which such Guaranty Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder), as determined by such Person in good faith.

**“Hazardous Substances”** — Without limitation, any explosives, radioactive materials, friable asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances and any other material defined as a hazardous substance in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.), Articles 15 and 27 of the New York State Environmental Conservation Law or any other applicable Environmental Law and in the regulations promulgated thereunder.

**“Hedge Agreement”** — An interest rate swap, cap or collar agreement, foreign currency exchange agreement, or any arrangement similar to any of the foregoing between Borrower and any Lender relating to any Indebtedness under this Agreement, each as providing for the transfer or mitigation of interest rate or foreign currency risk either generally or under specific contingencies.

“**HSBC Bank**” — HSBC Bank USA, National Association, and its successors and assigns.

“**Indebtedness**” — At a particular date, without duplication (i) all indebtedness of such Person for borrowed money; (ii) all bonds, notes, debentures and similar debt securities of such Person; (iii) the deferred purchase price of capital assets or services that in accordance with GAAP would be shown on the liability side of the balance sheet of such Person; (iv) the face amount of all letters of credit issued for the account of such Person and, without duplication, all drafts drawn thereunder; (v) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances; (vi) all Indebtedness of a second Person secured by any Lien on any property owned by such first Person, whether or not such indebtedness has been assumed; (vii) all Capitalized Lease Obligations of such Person; (viii) the present value, determined on the basis of the implicit interest rate, of all basic rental obligations under all Synthetic Leases of such Person; (ix) all obligations of such Person to pay a specified purchase price for goods or services whether or not delivered or accepted, i.e., take-or-pay and similar obligations; (x) all net obligations of such Person under Hedge Agreements; (xi) the full outstanding balance of trade receivables, notes or other instruments sold with full recourse (and the portion thereof subject to potential recourse, if sold with limited recourse), other than in any such case any thereof sold solely for purposes of collection of delinquent accounts; (xii) the stated value, or liquidation value if higher, of all redeemable Equity Interests of such Person; and (xiii) all Guaranty Obligations of such Person (without duplication under clause (vi)); provided, however that (x) neither trade payables nor other similar accrued expenses, in each case arising in the ordinary course of business, nor obligations in respect of insurance policies or performance or surety bonds that themselves are not guarantees of Indebtedness (nor drafts, acceptances or similar instruments evidencing the same nor obligations in respect of letters of credit supporting the payment of the same), shall constitute Indebtedness; and (y) the Indebtedness of any Person shall in any event include (without duplication) the Indebtedness of any other entity (including any general partnership in which such Person is a general partner) to the extent such Person is liable thereon 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 expressly that such Person is not liable thereon.

“**Interest Period**” or “**Interest Periods**” — Individually, and collectively, with respect to a Libor Loan, the one, two, three or six month interest periods selected by the Borrower pursuant to the terms of this Agreement to be applicable to specific Libor Loans from time to time or any such other periods of such other durations as the Borrower and all Lenders may agree shall be applicable to specific Libor Loans from time to time; provided, however, that (i) no Interest Period may be selected for a Revolving Loan that would end after the Revolving Credit Maturity Date; (ii) no Interest Period may be selected for a Term Loan that would end after the Term Loan Maturity Date; (iii) if any Interest Period begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month; (iv) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; and (v) if any Interest Period would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day.

**“Investment”** — With respect to any Person, any loan, advance or other extension of credit (other than unsecured normal trade credit extended upon customary terms in the ordinary course of such Person’s business) or capital contribution to, any purchase or other acquisition of any security of or interest in, or any other investment in, any other Person.

**“IRB Letters of Credit”** — Together, the New Hampshire Letter of Credit and the ECIDA Letters of Credit.

**“Issuing Bank”** — HSBC Bank, in its capacity as an issuer of Letters of Credit under this Agreement, and any replacements or successors of HSBC Bank in such capacity as provided in Section 2.4(j) of this Agreement.

**“Law”** or **“Laws”** — Any law, constitution, statute, regulation, rule, opinion, ruling, ordinance, order, injunction, writ, decree, bond or judgment of any Governmental Authority.

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

**“LC Exposure”** — At any time, the sum of (i) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (ii) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower 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.

**“Lead Arranger”** — Individually, and collectively, HSBC Bank and Bank of America, N.A., and any successor to either of such financial institutions as a Lead Arranger under this Agreement.

**“Lenders”** — The Persons listed on Schedule 2.1 to this Agreement with a Revolving Credit Commitment and a Term Loan Commitment and any other Person that shall have become a party hereto 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”** or **“Letters of Credit”** — Individually, and collectively, any, and all, standby or commercial letters of credit issued by HSBC Bank pursuant to this Agreement upon application by the Borrower including the Existing Letter of Credit and the IRB Letters of Credit.

**“Letter of Credit Commitment”** — With respect to the Issuing Bank, the amount set forth opposite such Issuing Bank’s name on Schedule 2.1 hereto under the caption “Letter of Credit Commitment” or, if the Issuing Bank has entered into one or more Assignments and Assumptions, the amount set forth for the Issuing Bank in the register maintained by the Agent as such Issuing Bank’s “Letter of Credit Commitment,” as such amount may be reduced at or prior to such time pursuant to Section 2.13.

**“Letter of Credit Facility”** — At any time, an amount equal to the amount of the Issuing Bank’s Letter of Credit Commitment at such time, as such amount may be reduced at or prior to such time pursuant to Section 2.13 less the aggregate Available Amount under all Letters of Credit outstanding at such time.

**“Letter of Credit Sublimit”** — The \$20,000,000 maximum aggregate Available Amount of all Letters of Credit which can be outstanding at any one time.

**“Leverage Ratio”** — The ratio of the Borrower’s Consolidated Total Funded Debt as of a calculation date to Consolidated EBITDA, calculated on a Rolling Four-Quarter Basis as of such calculation date.

**“Libor Interest Determination Date”** — A Business Day that is two (2) Business Days prior to the commencement of each Interest Period during which the Libor Rate will be applicable.

**“Libor Lending Office”** — With respect to any Lender, the office of such Lender specified as its Libor Lending Office” opposite its name on Schedule 2.1 hereto or in the Assignment and Assumption pursuant to which it became a Lender (or, if no such office is specified, its Domestic Lending Office), or such other office of such Lender as such Lender may from time to time specify to the Borrower and the Agent.

**“Libor Loan”** — Any Loan on which interest is calculated based on the Libor Rate plus the Applicable Margin.

**“Libor Rate”** — The reserve adjusted rate of interest per annum determined by HSBC Bank to be applicable to any selected Interest Period appearing on Reuters Screen LIBOR01 Page or such other substitute page that displays such rate or another alternate source selected by the Agent to determine such rate on a Libor Interest Determination Date in an amount approximately equal to the amount of the applicable Libor Loan.

**“Libor Rate Option”** — The Rate Option in which interest is calculated based upon the Libor Rate.

**“Lien”** — Any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien, charge or encumbrance, or preference, priority or other security agreement or preferential arrangement in respect of any asset of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement or any financing lease having substantially the same economic effect as any of the foregoing).

**“Loan” or “Loans”** — Individually and collectively, any Revolving Loan and any Term Loan, whether such is an ABR Loan or a Libor Loan and any Swingline Loan under the Revolving Credit.

**“Loan Account”** — An account or accounts maintained with the Agent for the Borrower into which the proceeds of a Revolving Loan and a Term Loan shall be initially deposited pursuant to Sections 2.1(b) and 2.5 of this Agreement.

**“Loan Document”** — This Agreement and any other loan, guaranty, mortgage, letter of credit or collateral document executed and delivered by Borrower, any Guarantor, or any other Subsidiary or the Lenders in connection with this Agreement including, without limitation, the Notes, any Guaranty, any Mortgage, the Subordination Agreement, any Letter of Credit or any document in connection therewith, and the Collateral Documents, as any of the same may be amended, modified, renewed or replaced from time to time.

**“LSI”** — Luminescent Systems, Inc., a New York corporation, formerly known as Flex-key Corporation, and a Subsidiary of the Borrower.

**“Material Adverse Effect”** — An effect, individually or in the aggregate, that (i) is materially adverse to the business, assets, financial condition or results of operations of Borrower and its Subsidiaries, taken as a whole, or (ii) does materially impair the ability of the Borrower to perform its obligations under this Agreement, or any other Loan Documents, or (iii) materially impairs the rights and remedies of the Agent, the Swingline Lender, any Issuing Bank or any of the Lenders under the Loan Documents.

**“Material Indebtedness”** — Indebtedness owing to a Person or Persons in a single transaction or related transactions (other than the Loans and Letters of Credit), or obligations in respect of one or more Hedge Agreements entered into with a Person, of the Borrower and any Subsidiary in an aggregate principal amount exceeding \$3,500,000. For purposes of determining Material Indebtedness, the principal amount of the obligations of any Person in respect of any Hedge Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Person would be required to pay if such Hedge Agreement were terminated at such time.

**“Maximum Limit”** — The maximum aggregate amount which the Borrower can borrow from time to time under the Revolving Credit which on the date hereof is \$45,000,000.

**“Multiemployer Plan”** — A Plan which is a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Borrower, any Person under Common Control with the Borrower, or any Person Controlled by the Borrower, has an obligation to contribute.

**“Multiple Employer Plan”** — A Plan subject to Title IV of ERISA and described in Section 4063 of ERISA with respect to which the Borrower or any ERISA Affiliate could have liability under Section 4064 or 4069 of ERISA in the event such Plan has been or were to be terminated.

**“New Hampshire Bond Project”** — A project of LSI, whereby LSI constructed and equipped an 80,000 square foot manufacturing facility in Lebanon, New Hampshire which was financed by means of a tax-exempt bond issued by the Business Authority of the State of New Hampshire.

**“New Hampshire Letter of Credit”** — The presently outstanding letter of credit in the current amount of approximately \$4,109,918 issued by HSBC Bank for the account of the Borrower and LSI to support the New Hampshire Bond Project.

**“Non-Material Subsidiary”** — Any Subsidiary that has, as of the date of determination, total assets equal to less than 2-1/2% of Consolidated Total Assets, based on the quarterly financial statements of Borrower most recently delivered to the Lenders.

**“Note”** or **“Notes”** — Individually, any, and collectively, all, of the Revolving Notes, Term Notes, and the Swingline Note, and any or all replacements and renewals thereof.

**“Operating Lease”** — As applied to any Person means any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP is not accounted for as a Capital Lease on the balance sheet of that Person.

**“Permitted Acquisition”** or **“Permitted Acquisitions”** — As defined in Section 6.7(c) of this Agreement.

**“Permitted Encumbrance”** — As defined in Section 6.2 of this Agreement.

**“Person”** — Any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated association, Governmental Authority or other entity, body, organization or group.

**“Plan”** — Any employee benefits plan which is covered by Title IV of ERISA and in respect of which the Borrower or a Commonly Controlled Entity is an “employer” as defined in Section 3(5) of ERISA, each of which Plans is listed on Schedule 1 to this Agreement.

**“Prime Rate”** — The rate of interest publicly announced by HSBC Bank from time to time as its prime rate and is a base rate for calculating interest on certain loans. The Prime Rate may or may not be the most favorable rate charged by HSBC Bank to its customers from time to time.

**“Rate Option”** or **“Rate Options”** — The choice of applicable interest rates and Interest Periods offered to the Borrower pursuant to this Agreement to establish the interest to be charged on certain portions of the unpaid principal borrowed hereunder from time to time.

**“Related Parties”** — With respect to any Person, such Person’s Affiliates and the directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

**“Release”** — Release as defined in Section 101(22) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), and the regulations promulgated thereunder.

**“Replaced Lender”** or **“Replacement Lender”** — As defined in Section 2.19 of this Agreement.



**“Reportable Event”** — Any event with regard to a Plan described in Section 4043(b) of ERISA or in regulations issued thereunder.

**“Request Certificate”** — A certificate in the form annexed hereto as Exhibit E with all blanks appropriately completed, and duly executed by the Borrower.

**“Required Lenders”** — At any time, Lenders that together hold Revolving Credit Exposures, Unused Revolving Credit Commitments and outstanding principal amounts of the Term Loans representing at least the Required Percentage (as defined below) of the sum of the Total Revolving Credit Exposures, Unused Revolving Credit Commitments and outstanding principal amounts of the Term Loans at such time; provided, however, if any Lender shall be a Defaulting Lender at such time, there shall be excluded from the determination of Required Lenders at such time (i) the aggregate principal amount of Loans owing to such Lender (in its capacity as a Lender) and outstanding at such time, and (ii) the aggregate Commitment of such Lender at such time. For purposes of this definition, the aggregate principal amount of Swingline Loans owing to the Swingline Lender, the LC Disbursements owing to the Issuing Bank and the amount available to be drawn under each Letter of Credit shall be considered to be owed to the Lenders ratably in accordance with their respective Commitments. As used herein, Required Percentage means at least two Lenders holding 66-2/3% or more at the time a determination of the Required Lenders is necessary, of the sum of the Total Revolving Credit Exposures, Unused Revolving Credit Commitments and outstanding principal amounts of the Term Loans.

**“Revolving Credit”** — The three-year revolving credit facility (including Revolving Loans, Swingline Loans and Letters of Credit) made available to the Borrower by the Lenders as provided in this Agreement.

**“Revolving Credit Commitment”** — With respect to each Lender, the commitment of such Lender to make Revolving Loans, to acquire participations in Letters of Credit, and to acquire participations in Swingline Loans hereunder, as such commitment may be (i) reduced from time to time pursuant to Section 2.13 of this Agreement, (ii) increased pursuant to Section 2.23 of this Agreement, and (iii) reduced or increased from time to time pursuant to assignment by or to such Lender pursuant to Section 10.3 of this Agreement. The initial maximum amount of each Lender’s Revolving Credit Commitment is set forth on Schedule 2.1 of this Agreement, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Credit Commitment, as applicable.

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

**“Revolving Credit Maturity Date”** — January 30, 2012, which date may be shortened in accordance with Section 7.2 of this Agreement.

**“Revolving Loan” or “Revolving Loans”** — Individually and collectively, each Loan by any Lender to Borrower whether initially made as an ABR Loan or a Libor Loan under Section 2.1 of this Agreement or arising from Borrower’s request for a Loan to repay a Swingline Loan under Section 2.3(c) of this Agreement, or arising from Borrower’s request to reimburse an LC Disbursement under Section 2.4(f) of this Agreement.

**“Revolving Note” or “Revolving Notes”** — The promissory note or promissory notes of the Borrower substantially in the form of Exhibit A hereto with all blanks appropriately completed, and all replacements and renewals thereof, evidencing the promise of the Borrower to repay Revolving Loans to the applicable Lender.

**“Rolling Four-Quarter Basis”** — The four most recently completed consecutive fiscal quarters of the Borrower immediately preceding a calculation date.

**“SEC”** — The U.S. Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

**“Securities Act”** — The Securities Act of 1933, as amended.

**“Security Agreements”** — Collectively, the Borrower Security Agreement and the Guarantor Security Agreement.

**“Seller Notes”** — The two unsecured notes issued by the Borrower pursuant to the Stock Purchase Agreement to the sellers of the stock of D M E in the respective principal amounts of \$5,000,000 and \$2,000,000, which notes are subordinated to the Indebtedness arising under this Agreement by the terms of the Subordination Agreement.

**“Stock Purchase Agreement”** — The Stock Purchase Agreement dated as of January 28, 2009 by and among the Borrower, D M E and the shareholders of D M E, and the Schedules in connection therewith.

**“Subordination Agreement”** — The agreement whereby the Seller Notes are subordinated to the Indebtedness of the Borrower arising under this Agreement, and any amendment, modification or replacement thereof.

**“Subsidiary”** — Any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of Borrower in Borrower’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any corporation of which at least 50% of the voting Equity Interest is owned by any entity directly, or indirectly through one or more Subsidiaries.

**“Swingline Exposure”** — At any time for all Lenders, 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”** — HSBC Bank, in its capacity as lender of Swingline Loans hereunder, and any replacement or successor to HSBC Bank in such capacity, as provided in this Agreement.

**“Swingline Loan”** — A loan made pursuant to Section 2.3 of this Agreement.

**“Swingline Note”** — A promissory note of Borrower substantially in the form of Exhibit B hereto with all blanks appropriately completed, and all replacements and renewals thereof evidencing the promise of the Borrower to repay Swingline Loans to the Swingline Lender.

**“Synthetic Lease”** — Any lease (i) that is accounted for by the lessee as an Operating Lease and (ii) under which the lessee is intended to be the “owner” of the leased property for federal income tax purposes.

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

**“Term Loan”** or **“Term Loans”** — Collectively, the term loan made or to be made by the Lenders to the Borrower and individually, each Lender’s share of such term loan made by such Lender to the Borrower, on the Closing Date in the aggregate principal amount of \$40,000,000 pursuant to Section 2.1(c).

**“Term Loan Commitment”** — With respect to each Lender the commitment of such Lender to fund its portion of the Term Loan to the Borrower on the Closing Date. The initial amount of each Lender’s Term Loan Commitment is set forth on Schedule 2.1 to this Agreement.

**“Term Loan Maturity Date”** — January 30, 2014, which date may be shortened in accordance with Section 7.2 of this Agreement.

**“Term Note”** — The promissory note or promissory notes of the Borrower substantially in the form of Exhibit C hereto with all blanks appropriately completed, and all replacements and renewals thereof, evidencing the promise of the Borrower to repay Term Loans to the applicable Lender.

**“Total Revolving Credit Commitment”** — The sum of the Revolving Credit Commitments of the Lenders, as in effect from time to time. On the Closing Date, the Total Revolving Credit Commitment is equal to \$45,000,000.

**“Total Revolving Credit Exposure”** — The total Revolving Credit Exposures of all the Lenders.

**“Total Term Loan Commitment”** — The sum of the Term Loan Commitments of the Lenders, as in effect from time to time. On the Closing Date, the Total Term Loan Commitment is equal to \$40,000,000.

**“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 Libor Rate or the Alternate Base Rate.

**“Unused Revolving Credit Commitment”** — With respect to any Lender at any time, (i) such Lender’s Revolving Credit Commitment at such time minus (ii) the sum of (x) the aggregate principal amount of all Revolving Loans in each instance made by such Lender (in its capacity as a Lender) and outstanding at such time, plus (y) such Lender’s Applicable Percentage of (1) the aggregate Available Amount of all Letters of Credit outstanding at such time, (2) the aggregate principal amount of all LC Disbursements made by any Issuing Bank and outstanding at such time, and (3) the aggregate principal amount of all Swingline Loans made by the Swingline Lender and outstanding at such time.

**“USA Patriot Act”** — The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

## **1.2 Accounting Terms.**

**(a) Generally.** All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing Borrower’s audited financial statements previously provided to the Agent and the Lenders, except as otherwise specifically prescribed herein.

**(b) Changes in GAAP.** If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in this Agreement, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

**1.3 Times of Day.** Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

**1.4 Letters of Credit Amounts.** Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any letter of credit document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

## ARTICLE II. THE CREDITS

### 2.1 The Revolving Credit and Term Loans

(a) **Revolving Loans.** Each Lender agrees, severally and not jointly, subject to the terms and conditions and relying upon the representations and warranties set forth in this Agreement and within the limits hereof, to make one or more Revolving Loans to the Borrower, and Borrower may make a request for a Revolving Loan or Revolving Loans from the Lenders, at any one time and from time to time, during the Availability Period. The Borrower shall not at any time permit, and no Lender shall have any obligation to permit, the aggregate outstanding principal amounts of all Revolving Loans, Swingline Loans and the aggregate Available Amount of all Letters of Credit outstanding at such time to exceed the Maximum Limit or any such Revolving Loan to exceed such Lender's Unused Revolving Credit Commitment. The Revolving Loans may be repaid and reborrowed in accordance with the provisions hereof.

(b) **Method for Revolving Loans.** When Borrower wants the Lenders to make a Revolving Loan available, the Borrower shall notify the Agent not later than 1:00 p.m. on the Business Day on which the Revolving Loan is to be funded in the case of an ABR Loan, and in the case of a Libor Loan not later than two (2) Business Days prior to the proposed commencement date of the applicable Interest Period. In such notice, which may be by telephone, confirmed immediately in writing, or telex or telecopier, by means of a Request Certificate duly completed and executed by an Authorized Officer, the Borrower shall specify (i) the aggregate amount of the Revolving Loan to be made on a designated date which shall be in a minimum amount of \$100,000 and shall be in whole multiples of \$100,000 for amounts in excess of such minimum amount; (ii) whether the Revolving Loan shall be an ABR Loan or a Libor Loan, and if a Libor Loan the applicable Interest Period, provided, however, such Interest Period may in no event overlap more than nine (9) other Interest Periods; and (iii) the proposed date on which the Revolving Loan is to be funded which shall be a Business Day. Each Lender shall make available to the Agent in accordance with Section 2.5 hereof, in immediately available funds, such Lender's Applicable Percentage of such Loan in accordance with the respective Revolving Credit Commitment of such Lender. As early as practically possible on the date on which a Revolving Loan is made and upon fulfillment of the conditions set forth in Article III of this Agreement, the Agent will make the proceeds of the Revolving Loan available to the Borrower by a deposit to the applicable Loan Account.

(c) **Term Loans.** Each Lender agrees, severally and not jointly, subject to the terms and conditions set forth in this Agreement and relying on the representations and warranties set forth in this Agreement, to fund in a single advance its portion of the Term Loan in the full amount of its Term Loan Commitment on the Closing Date. Principal amounts of the Term Loan that are repaid or prepaid may not be reborrowed.

**2.2 The Notes.** (a) The Revolving Loans shall be evidenced by the Revolving Notes, executed by an Authorized Officer and with all blanks appropriately completed, payable as provided therein to the Lenders. Each Revolving Note may be inscribed by the holder thereof on the schedule attached thereto, and any continuation thereof, with the date of the making of each Revolving Loan, the amount of each Revolving Loan, the applicable Rate Options and Interest Periods, all payments of principal, and the aggregate outstanding principal balance thereof.

(b) The Swingline Loans shall be evidenced by the Swingline Note, executed by an Authorized Officer with all blanks appropriately completed, payable as provided therein to the Swingline Lender. The Swingline Note may be inscribed by the holder thereof on the schedule attached thereto and any continuation thereof with the date of the making of each Swingline Loan, the amount thereof and all payments of principal, and the aggregate principal balance thereof.

(c) The Term Loans shall be evidenced by the Term Notes, executed by an Authorized Officer with all blanks appropriately completed, payable as provided therein to the Lenders. The Term Loans shall be payable in nineteen (19) equal consecutive quarterly principal installments which aggregate \$2,000,000 each commencing on April 1, 2009 and payable on the first day of each July, October, January and April thereafter, to and including October 1, 2013, and one final installment on January 2, 2014 in an amount equal to the then unpaid principal balance of the Term Loans. Each Term Note may be inscribed by the holder thereof on the schedule attached thereto, and any continuation thereof, with the applicable Interest Periods, all payments of principal, and the aggregate outstanding principal balance thereof.

Any such inscription on the schedules to any Revolving Note, Term Note, or the Swingline Note made by the holder thereof shall constitute prima facie evidence of the accuracy of the information so recorded; provided, however, the failure of any Lender or other holder to make any such inscription shall not affect the obligations of the Borrower under any Revolving Note, the Swingline Note or this Agreement.

**2.3 Swingline Loans.** (a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Loans ("Swingline Loans") to Borrower solely for the Swingline Lender's own account, from time to time during the Availability Period, up to an aggregate principal amount at any one time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$5,000,000 or (ii) the sum of the aggregate Unused Revolving Credit Commitments of the Lenders at such time being exceeded; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. The Swingline Lender shall not make any Swingline Loan in the period commencing one Business Day after the Swingline Lender shall have received written notice in accordance with Section 10.5 of this Agreement from the Agent or any Lender that one or more of the conditions contained in Article III are not then satisfied or a Default or an Event of Default exists and ending upon the satisfaction or waiver of such condition(s) or cure or waiver of such Default or Event of Default. Swingline Loans shall bear interest payable monthly on the first calendar day of each month at the ABR Option from time to time in effect. Each outstanding Swingline Loan shall be payable on the Business Day following demand therefor or automatically without demand on the Revolving Credit Maturity Date, together with interest accrued thereon, and shall otherwise be subject to all other terms and conditions applicable to all Revolving Loans, except that all interest thereon shall be payable to the Swingline Lender solely for its own account other than in the case of the purchase of a participation therein in accordance with Section 2.3(c) of this Agreement. Within the foregoing limits and subject to the terms and conditions set forth herein, Borrower may borrow, repay and reborrow Swingline Loans.

(b) To request a Swingline Loan, Borrower shall notify the Agent of such request by telephone (confirmed by telecopy), not later than 1:00 p.m. 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 Agent will promptly advise the Swingline Lender of any such notice received from Borrower. The Swingline Lender shall make each Swingline Loan available to Borrower by means of a credit to the general deposit account of Borrower 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 2.4(f) of this Agreement, by remittance to such Issuing Bank) by 3:00 p.m. on the requested date of such Swingline Loan.

(c) At any time after making a Swingline Loan, the Swingline Lender may request Borrower to, and upon request by the Swingline Lender, Borrower shall, promptly request a Revolving Loan from all Lenders and apply the proceeds of such Revolving Loan to the repayment of any Swingline Loan owing by Borrower not later than the Business Day following the Swingline Lender's request. Notwithstanding the foregoing, and upon the earlier to occur of (i) three (3) Business Days after demand for payment is made by the Swingline Lender for a Swingline Loan, and (ii) the Revolving Credit Maturity Date, if such Swingline Loan has not been paid by Borrower, such Swingline Loan shall bear interest as an ABR Loan and each Lender (other than the Swingline Lender) shall irrevocably and unconditionally purchase from the Swingline Lender, without recourse or warranty, an undivided interest and participation in such Swingline Loan in an amount equal to such Lender's Applicable Percentage of such Swingline Loan and promptly pay such amount to the Agent for the account of the Swingline Lender by wire transfer of immediately available funds in the same manner as provided in Section 2.5 of this Agreement with respect to Loans made by such Lender, and the Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. 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, shall be made without any offset, abatement, withholding or reduction whatsoever and such payment shall be made by the other Lenders whether or not an Event of Default or a Default is then continuing or any other condition precedent set forth in Article III is then met and whether or not Borrower has then requested a Revolving Loan in such amount. The Agent shall notify Borrower 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 Agent and not to the Swingline Lender. If any Lender fails to make available to the Agent for the account of the Swingline Lender, any amounts due to the Swingline Lender from such Lender pursuant to this Section, the Swingline Lender shall be entitled to recover such amount, together with interest thereon at the Federal Funds Effective Rate for the first three (3) Business Days after Defaulting Lender receives such notice and thereafter at the rate for ABR Loans, in either case payable (i) on demand, (ii) by setoff against any payments made to the Swingline Lender for the account of Defaulting Lender, or (iii) by payment to the Swingline Lender by the Agent of amounts otherwise payable to Defaulting Lender under this Agreement. The failure of any Lender to make available to the Agent for the account of the Swingline Lender its Applicable Percentage of any unpaid Swingline Loan shall not relieve any other Lender of its obligation hereunder to make available to the Agent for the account of the Swingline Lender, its Applicable Percentage of any unpaid Swingline Loan on the date such payment is to be made, but no Lender shall be responsible for the failure of any other Lender to make available to the Agent for the account of the Swingline Lender its Applicable Percentage of any unpaid Swingline Loan.

## **2.4 Letters of Credit.**

**(a) General.** Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, to issue Letters of Credit for the account of the Borrower from time to time on any Business Day during the period from the Closing Date until two (2) Business Days prior to the Revolving Credit Maturity Date (A) in an aggregate Available Amount for all Letters of Credit, not to exceed at any time such Issuing Bank's Letter of Credit Commitment at such time, and (B) in an Available Amount for each such Letter of Credit not to exceed an amount equal to the Unused Revolving Credit Commitments of the Lenders at such time. Within the limits of the Letter of Credit Facility, and subject to the limits referred to herein, the Borrower may request the issuance of Letters of Credit under this Section, repay any LC Disbursements resulting from drawings under Letters of Credit pursuant to Section 2.4(f) and request the issuance of additional Letters of Credit under Section 2.4(c). 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 Borrower to, or entered into by Borrower with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

**(b) Letter of Credit Fees.** The Issuing Bank shall have the right to receive, solely for its own account, and Borrower shall pay on demand with respect to any Letter of Credit the Issuing Bank's reasonable and customary administrative, issuance, amendment, drawing and negotiation charges in connection with letters of credit. The Issuing Bank shall also be paid a fronting fee which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to Unreimbursed LC Disbursements) attributable to Letters of Credit issued by the Issuing Bank during the Availability Period ("Fronting Fee"). The Fronting Fee shall be payable to the Issuing Bank quarterly in arrears. For each day during (i) the period beginning on the date of this Agreement and ending March 31, 2009, (ii) each full calendar quarter thereafter during the term of this Agreement and (iii) the period beginning on the first day of the calendar quarter containing the Revolving Credit Maturity Date and ending on the day before the Revolving Credit Maturity Date, the Borrower shall pay, on the first Business Day following each such calendar quarter or other time period, to the Agent for the account of each Lender participating in such Letters of Credit a non-refundable letter of credit fee equal to such Lender's Applicable Percentage, on such day, of the product obtained by multiplying (A) that portion of LC Exposure representing the aggregate Available Amount of Letters of Credit on such day first by (B) the Applicable Margin then in effect for Libor Loans and then by (C) 1/360.



**(c) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions; Reports.** (i) To request the issuance of a Letter of Credit other than the IRB Letters of Credit or the Existing Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Agent (at least two (2) Business Days in advance of the requested date of issuance, amendment, renewal or extension for a Letter of Credit) 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 (d) of this Section), the Available Amount of such Letter of Credit, the Applicable Currency, the name and address of the beneficiary thereof, the purpose for which such Letter of Credit is to be issued, and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. Such notice, to be effective, must be received by the Issuing Bank not later than 2:00 p.m. or the time agreed upon by such Issuing Bank and the Borrower on the last Business Day on which such notice can be given under this Section 2.4(c). If requested by the Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit.

(ii) A Letter of Credit shall be issued, amended, renewed or extended only if, (x) after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed the Letter of Credit Commitment, and (ii) the sum of the total Revolving Credit Exposures shall not exceed the Total Revolving Credit Commitment, and the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Credit Commitment (y) as of the date of such issuance amendment, renewal or extension, no order, judgment or decree of any court, arbitrator or Governmental Authority shall purport by its terms to enjoin or restrain the Issuing Bank from issuing the Letter of Credit and no law, rule or regulation applicable to the Issuing Bank and no request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Bank shall prohibit or request that the Issuing Bank refrain from the issuance of letters of credit generally or the issuance of that Letter of Credit. Unless the Issuing Bank has been notified by the Agent or the Required Lenders in writing that a Default or an Event of Default has occurred and is continuing, in which case the Issuing Bank shall have no obligation to issue, amend, renew or extend any Letter of Credit until such notice is withdrawn by the Agent or the Required Lenders or such Default or Event of Default has been effectively waived in accordance with the provisions of this Agreement, the Issuing Bank shall, upon fulfillment of the applicable conditions set forth in Article III, make such Letter of Credit available to the Borrower as agreed between the Issuing Bank and the Borrower in connection with such issuance.

(iii) The Issuing Bank shall furnish (i) to the Agent on the first Business Day of each week a written report summarizing issuance and expiration dates of Letters of Credit issued during the previous week and drawings during such week under all Letters of Credit, (ii) to the Agent, the Borrower, and each Lender on the first Business Day of each month a written report summarizing issuance and expiration dates of Letters of Credit issued during the preceding month and drawings during such month under all Letters of Credit, and (iii) to the Agent, the Borrower, and each Lender on the first Business Day of each calendar quarter a written report setting forth the average daily aggregate Available Amount during the preceding calendar quarter of all Letters of Credit.

**(d) Expiration Date.** No Letter of Credit shall have an expiration date (including all rights of the Borrower or the beneficiary to require renewal) later than one (1) Business Day prior to the Revolving Credit Maturity Date. The foregoing notwithstanding, any standby Letter of Credit may, by its terms, be renewable annually upon notice (a "Notice of Renewal") given to the Issuing Bank and the Agent on or prior to any date for notice of renewal set forth in such Letter of Credit (but in any event at least two (2) Business Days prior to the date of the proposed renewal of such standby Letter of Credit) and upon fulfillment of the applicable conditions set forth in Article III unless the Issuing Bank shall have notified the Borrower (with a copy to the Agent) on or prior to the date for notice of termination set forth in such Letter of Credit (but in any event at least thirty (30) Business Days prior to the date of automatic renewal) of its election not to renew such standby Letter of Credit (a "Notice of Termination"); provided that the terms of each standby Letter of Credit that is automatically renewable annually shall not permit the expiration date (after giving effect to any renewal) of such standby Letter of Credit in any event to be extended to a date later than one (1) Business Day before the Revolving Credit Maturity Date. If either a Notice of Renewal is not given by the Borrower or a Notice of Termination is given by the Issuing Bank pursuant to the immediately preceding sentence, such standby Letter of Credit shall expire on the date on which it otherwise would have been automatically renewed; provided, however, that even in the absence of receipt of a Notice of Renewal, the Issuing Bank may, in its discretion unless instructed to the contrary by the Agent or the Borrower, deem that a Notice of Renewal had been timely delivered and, in such case, a Notice of Renewal shall be deemed to have been so delivered for all purposes under this Agreement.

**(e) Participations.** (i) Immediately upon issuance by the Issuing Bank of any Letter of Credit in accordance with the procedures set forth in Section 2.4(c) of this Agreement, each Lender shall be deemed to have irrevocably and unconditionally purchased and received from the Issuing Bank, without recourse or warranty, an undivided interest and participation equal to its Applicable Percentage of such Letter of Credit (including, without limitation, all obligations of the Borrower with respect thereto) and any security therefor or guaranty pertaining thereto.

(ii) In the event that the Issuing Bank makes any LC Disbursement and the Borrower shall not have repaid such amount to the Issuing Bank pursuant to Section 2.4(f) of this Agreement, the Issuing Bank shall promptly notify the Agent and each Lender of such failure, and each Lender shall promptly and unconditionally pay to the Agent for the account of the Issuing Bank the amount of such Lender's Applicable Percentage of the unreimbursed amount of any LC Disbursement in the same manner as provided in Section 2.5 of this Agreement with respect to Revolving Loans made by such Lender and the Agent shall promptly pay to such Issuing Bank the amounts so received by it from the Lenders.

(iii) If any Lender fails to make available to the Issuing Bank any amounts due to the Issuing Bank pursuant to this Section 2.4(e), the Issuing Bank shall be entitled to recover such amount, together with interest thereon, at the Federal Funds Effective Rate for the first three (3) Business Days after Defaulting Lender receives such notice and thereafter at the rate for ABR Loans, in either case payable (i) on demand, (ii) by setoff against any payments made to such Issuing Bank for the account of Defaulting Lender or (iii) by payment to the Issuing Bank by the Agent of amounts otherwise payable to Defaulting Lender under this Agreement. The failure of any Lender to make available to the Agent for the account of the Issuing Bank its Applicable Percentage of the unreimbursed amount of any LC Disbursement shall not relieve any other Lender of its obligation hereunder to make available to the Agent for the account of the Issuing Bank its Applicable Percentage of the unreimbursed amount of any LC Disbursement on the date such payment is to be made, but no Lender shall be responsible for the failure of any other Lender to make available to the Agent for the account of the Issuing Bank its Applicable Percentage of the unreimbursed amount of any LC Disbursement on the date such payment is to be made.

(iv) Whenever the Issuing Bank receives a payment on account of an LC Disbursement, including any interest thereon, it shall promptly pay to each Lender which has funded its participating interest therein, in like funds as received an amount equal to such Lender's pro rata share thereof based on the amount funded.

(v) The obligations of a Lender to make payments to the Agent for the account of the Issuing Bank with respect to LC Disbursements shall be absolute, unconditional and irrevocable, not subject to any counterclaim, set-off, qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, whether or not an Event of Default or a Default is then continuing.

(vi) In the event any payment by Borrower received by the Agent with respect to a Letter of Credit and distributed by the Agent to the Lenders on account of their participations is thereafter set aside, avoided or recovered from the Agent in connection with any receivership, liquidation, reorganization or bankruptcy proceeding, each Lender which received such distribution shall, upon demand by the Agent, contribute such Lender's Applicable Percentage of the amount set aside, avoided or recovered together with interest at the rate required to be paid by the Agent upon the amount required to be repaid by it.

**(f) Reimbursement.** If the Issuing Bank shall make any LC Disbursement, the Borrower shall reimburse such LC Disbursement by paying to the Agent for the account of the Issuing Bank an amount equal to such LC Disbursement not later than 12:00 Noon on the date that such LC Disbursement is made, if the Borrower shall have received notice by telephone or otherwise of such LC Disbursement prior to 10:00 a.m. on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 Noon on (i) the Business Day that the Borrower receives such notice, if such notice is received prior to 10:00 a.m. on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.1 or 2.3 of this Agreement that such payment be financed with an ABR Loan or Swingline Loan in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Loan or Swingline Loan.

**(g) Obligations Absolute.** The Borrower's obligations to reimburse LC Disbursements as provided in paragraph (f) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply strictly with the terms of such Letter of Credit so long as it complies in all material respects, (iv) the existence of any claim, set-off, defense or other right which Borrower or any Subsidiary may have at any time against the beneficiary named in a Letter of Credit or any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the Issuing Bank, any Lender, any other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transaction (including any underlying transactions between Borrower, any Subsidiary and the beneficiary named in any Letter of Credit), (v) the occurrence of any Event of Default or Default, or (vi) 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 Borrower's obligations hereunder. As among the Borrower, the Issuing Bank and the Lenders, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of the Letters of Credit requested by it. In furtherance and not in limitation of the foregoing, the Issuing Bank and the Lenders shall not be responsible for (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respect invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of a Letter of Credit to comply fully with conditions required in order to draw upon such Letter of Credit so long as such beneficiary is in material compliance with such conditions; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise; (v) errors in interpretation of technical terms; (vi) misapplication by the beneficiary of a Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (vii) any consequences arising from causes beyond the control of the Issuing Bank or the Lenders. In addition to amounts payable as elsewhere provided in this Section 2.4, Borrower hereby agrees to protect, indemnify, pay and save the Agent, the Issuing Bank and each Lender harmless from and against any and all claims, demands, liabilities, damages, losses, posts, charges and expenses (including reasonable attorneys' fees) arising from the claims of third parties against the Agent or the Issuing Bank in respect of any Letter of Credit requested by the Borrower. In furtherance and extension and not in limitation of the specific provisions hereinabove set forth, any action taken or omitted by the Issuing Bank or any Lender under or in connection with the Letters of Credit or any related certificates, if taken or omitted in good faith, shall not put the Issuing Bank, the Agent or such Lender under any resulting liability to Borrower or relieve Borrower of any of their obligations hereunder to the Issuing Bank, the Agent or any Lender. Notwithstanding anything to the contrary contained in this Section 2.4(g), Borrower shall not have any obligations to indemnify the Issuing Bank under this Section 2.4(g) in respect of any liability incurred by the Issuing Bank that is found in a final judgment by a court of competent jurisdiction to have resulted primarily from the Issuing Bank's own gross negligence or willful misconduct, unless such action or inaction on the part of the Issuing Bank which gave rise to the liability was taken at the request of Borrower or from the wrongful failure to pay the Letter of Credit except if pursuant to an order from a Governmental Authority (even if such order is later invalidated).

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

**(i) Interim Interest.** If the Issuing Bank shall make any LC Disbursement, then regardless of the time of Borrower's receipt of notice of such LC Disbursement, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made to, but excluding, the date that Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then the default interest rate set forth in Section 2.6(c) of this Agreement 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)(ii) or (e)(iii) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

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

**(k) Cash Collateralization.** If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than fifty percent (50%) of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an interest-bearing account with the Agent, in the name of the Agent and for the benefit of the Lenders, an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that 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 any of the Borrower described in Section 7.1(d) or (e) of this Agreement. Such deposit shall be held by the Agent as Collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the interest-bearing account or on any investment of such deposits, which investments shall be made at the option and sole discretion of the Agent and at the Borrower'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 Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower 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 fifty percent (50%) of the total LC Exposure), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower 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 Borrower within three Business Days after all Events of Default have been cured or waived.

**(l) Existing Letter of Credit.** The Existing Letter of Credit will remain in effect, and as of the date of this Agreement shall be a "Letter of Credit" hereunder. The per annum fee applicable thereto will be payable quarterly in arrears to the Issuing Bank, on the first day of each fiscal quarter of Borrower while such letter of credit is outstanding, and will be initially determined on the date of this Agreement, and adjusted on the first day of each fiscal quarter of the Borrower thereafter, based on and equal to, the then applicable Applicable Margin for the Libor Rate Option for and calculated on the basis of a 360-day year and actual days elapsed. The Existing Letter of Credit shall also be subject to HSBC Bank's normal and customary amendment and drawing fees upon the occurrence of such events. Except as modified herein and modified on or after the date hereof to provide that the expiry date thereof will not exceed the Business Day prior to the Revolving Credit Maturity Date, the applicable reimbursement agreement for the Existing Letter of Credit shall remain in full force and effect and shall continue to govern the Existing Letter of Credit.

**(m) IRB Letters of Credit.** The IRB Letters of Credit will remain in effect, and as of the date of this Agreement shall be a "Letter of Credit" hereunder. The stand-by letter of credit fees applicable to the IRB Letters of Credit shall be initially determined on the date of this Agreement, and adjusted on the first day of each fiscal quarter of Borrower thereafter, based on and equal to, the then applicable Applicable Margin for the Libor Rate Option for and calculated on the basis of a 360-day year and actual days elapsed, and shall be payable quarterly in arrears on the first day of each fiscal quarter of the Borrower while such letters of credit are outstanding. The related reimbursement agreements and bond documents, except as modified herein, and modified on or after the date hereof to provide that the expiry dates thereof do not exceed the Business Day prior to the Revolving Credit Maturity Date, and the related bond documents shall remain in full force and effect and shall continue to govern the IRB Letters of Credit. The Issuing Bank shall refund any fees paid by the Borrower with respect to any of the IRB Letters of Credit before the date of this Agreement for any period after the date of this Agreement or provide the Borrower a credit for such fees against other amounts payable by the Borrower to the Issuing Bank as a Lender hereunder.

**2.5 Funding of Borrowings.** (a) Each Lender shall fund its Applicable Percentage of each Loan to be made hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., in the case of Revolving Loans or Term Loans, to the account most recently designated by the Agent for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.3 hereof. The Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to the Loan Account; provided that ABR Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.4(f) of this Agreement shall be remitted by the Agent to the appropriate Issuing Bank and that Loans made to repay Swingline Loans as provided in Section 2.3 of this Agreement shall be remitted by the Agent to the Swingline Lender.

(b) Unless the Agent shall have received notice from a Lender in accordance with Section 10.5 of this Agreement that such Lender will not make available to the Agent such Lender's share of such borrowing, the 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 Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Agent, then the Defaulting Lender and the Borrower severally agree to pay to the Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Agent, at (i) in the case of Defaulting Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If a Defaulting Lender pays such amount to the Agent, then such amount, less any interest paid from such amount to the Agent, shall constitute such Lender's Loan included in such borrowing. Any Defaulting Lender shall pay on demand to the Borrower the amount equal to the excess of the interest actually paid by the Borrower to the Agent over the interest which would have otherwise been payable by the Borrower to such Defaulting Lender had such Defaulting Lender funded its share of the applicable borrowing, plus interest on such amount at the rate applicable to ABR Loans.

## **2.6 Interest.**

**(a) Rates.** (i) The Revolving Notes shall bear interest until paid in full on the balance of principal thereof from time to time unpaid, payable in arrears on the first day of each quarter for interest accrued during the preceding quarter in the case of ABR Loans and in the case of Libor Loans payable in arrears on the last day of the applicable Interest Period, and in the case of an Interest Period in excess of three months also payable on the dates that are successively three months after the commencement of such Interest Period. The Revolving Loans shall bear interest in accordance with the Rate Option selected by the Borrower pursuant to the terms hereof.

(ii) The Swingline Note shall bear interest until paid in full payable monthly in arrears on the first day of each month for interest accrued during the preceding month on the balance of principal from time to time unpaid. The Swingline Loan shall bear interest as provided in Sections 2.3(a) and 2.6(b)(ii) of this Agreement.

(iii) The Term Loan Notes shall bear interest until paid in full on the balance of principal thereof from time to time unpaid, payable in arrears on the first day of each quarter for interest accrued during the preceding quarter in the case of ABR Loans and in the case of Libor Loans payable in arrears on the last day of the applicable Interest Period, and in the case of an Interest Period in excess of three months also payable on the dates that are successively three months after the commencement of such Interest Period. The Term Loans shall bear interest in accordance with the Rate Option selected by the Borrower pursuant to the terms hereof.

**(b) Rate Options.** (i) Unless the Borrower has selected a Libor Rate in accordance with the provisions of this Agreement, the Borrower shall be deemed to have selected the ABR Option to apply to any portion of a Revolving Note or Term Note not subject to a Libor Rate, and such rate shall continue in effect until the earlier of when a Libor Rate and Interest Period are available and properly selected, or until the applicable Revolving Note or Term Note is paid in full.

Notice by the Borrower of the selection of a Libor Rate or Interest Period for any Revolving Loan or Term Loan, the amount subject thereto, and the applicable Interest Periods shall be irrevocable. Such notice may be given to the Agent by a duly completed Request Certificate executed by an Authorized Officer of the Borrower.

(ii) The Swingline Note shall bear interest at the ABR Option then in effect and such rate shall continue until the Swingline Note is paid in full.

**(c) Default Rate.** Upon notice to the Borrower by the Agent of the occurrence of an Event of Default (which notice the Agent shall be obligated to give at the direction of the Required Lenders) and during the continuance thereof and after maturity, whether by acceleration or otherwise, the Revolving Notes, the Term Notes and Swingline Note shall bear interest at the applicable Default Rate. Overdue fees and other amounts payable by the Borrower under this Agreement other than principal ("Overdue Amounts") shall also bear interest at the applicable Default Rate. In no event shall the rate of interest on the Revolving Notes, Term Notes or the Swingline Note, or the rate of interest applicable to Overdue Amounts, exceed the maximum rate of interest authorized by law.



**(d) Late Charge.** Upon notice to the Borrower by the Agent of the failure to make any regularly scheduled payment of interest or principal on any Revolving Loan or Term Loan within ten (10) days of the due date thereof (which notice the Agent shall be obligated to give at the direction of the Required Lenders), the Borrower promises to pay to the Agent for the benefit of the Lenders a late charge equal to five percent (5%) of the amount of any such overdue amount.

**(e) Computation of Interest.** Interest on ABR Loans shall be calculated on the basis of a year of 365 days, or 366 days during a leap year, for the actual number of days elapsed. Interest on Libor Loans shall be calculated on the basis of the actual number of days elapsed in a year of 360 days, which will result in a higher effective annual rate. If any of the Notes are not paid when due, whether because such Notes become due on a Saturday, Sunday or bank holiday or for any other reason, the Borrower will pay interest thereon at the aforesaid rate until the date of actual receipt of payment by the holder of the Notes.

**(f) Rate Conversions and Continuations.** For any Revolving Loan or Term Loan, the Borrower may elect to convert any portion of (i) an ABR Loan to a Libor Loan, or (ii) a Libor Loan to an ABR Loan, or to continue any Libor Loan or ABR Loan as a new loan of the same Type; provided, however, Libor Loans may only be converted to ABR Loans or continued on the expiration date of the applicable Interest Period.

Subject to the foregoing, with respect to a Revolving Loan or Term Loan, the Borrower may elect to convert any ABR Loan to a Libor Loan, or, to continue a Libor Loan as a new Libor Loan, by Borrower giving irrevocable notice of such election to the Agent by 1:00 p.m. at least two (2) Business Days prior to the requested rate change date and, in the case of any Libor Loan, such conversion or continuation shall take place on the last day of the applicable Interest Period with respect to the Revolving Loan or Term Loan being so converted or continued. Such notice may be given by a duly completed and executed Request Certificate. Each such request to convert or continue shall include the requested rate change date (which shall be a Business Day), the Rate Option selected, and the amount to be converted or continued (which shall be in a principal amount of \$100,000 or more and in whole multiples of \$100,000 in the case of conversion to, or continuation as, a Libor Loan). If no Event of Default or Default is then existing at such time, and the Borrower is in compliance with the terms of this Agreement as evidenced by the Agent's receipt of a properly completed and executed Request Certificate, such conversion or continuation shall be made on the requested rate change date, subject to the foregoing limitations in connection with the conversion or continuation of Libor Loans.

The Agent shall not incur any liability to Borrower in acting upon any telephonic notice which the Agent believes to have been given by a duly authorized officer or other designated representative of Borrower, and which is confirmed by delivery to the Agent from the Borrower or the Borrower of a written or facsimile notice signed by Borrower or the Borrower, or for otherwise acting in good faith hereunder.

## **2.7 Prepayments and Payments.**

### **(a) Optional Prepayments.**

(i) **ABR Loans.** Borrower shall have the right to prepay at any time without premium all or any portion of the ABR Loans.

(ii) **Libor Loans.** Borrower shall have the right to prepay without premium all or any portion of the Libor Loans on the expiration day of the applicable Interest Period. If any Libor Loan is prepaid at any other time, Borrower shall pay to the applicable Lender an amount equal to the Breakage Fee within 10 days of notice thereof from the Agent, setting forth the amount of such Breakage Fee.

All prepayments of the Revolving Loans or Term Loans shall be subject to a minimum amount of \$100,000, and incremental multiples of \$100,000 thereafter.

### **(b) Mandatory Prepayments.**

(i) **Net Proceeds.** Borrower shall make a mandatory prepayment to the Agent for the account of the Lenders in accordance with their Applicable Percentages, promptly upon receipt thereof, equal to (1) all (100%) of the Net Proceeds received by the Borrower or any Subsidiary from (i) any Asset Sale (other than as described in (ii) hereof) in excess of \$1,000,000 unless the proceeds of such sale are reinvested in assets within one hundred twenty (120) days of the occurrence of such Asset Sale; (ii) insurance, condemnation and similar recoveries other than such recoveries that, within ninety (90) days after receipt thereof, are applied in the ordinary course of business toward repair or replacement of the damaged property or such longer reasonable time period as determined under the Borrower's plan of restoration or replacement for such property established within a ninety (90) day period after such occurrence provided such plan is acceptable to the Agent in its reasonable judgment; and (iii) the reversion of Plan assets from an over-funded Plan, but only to the extent of such over-funding and (2), at any time the Leverage Ratio is greater than 2.00:1.00, fifty percent (50%) of the Net Proceeds received by the Borrower or any Subsidiary from the issuance of any Equity Interests in Borrower or any Subsidiary (other than an issuance to the Borrower by any Subsidiary or an issuance to a Subsidiary by another Subsidiary). Borrower shall give to the Agent written notice of the occurrence of an event requiring a mandatory prepayment hereunder promptly, but not later than within thirty (30) days after the occurrence of such an event.

(ii) **Revolving Credit Commitments Exceeded.** If on any date, the Revolving Credit Exposures of the Lenders exceed the Total Revolving Credit Commitment, or the Revolving Credit Exposure of any Lender exceeds such Lender's Revolving Credit Commitment, or the aggregate principal amount of Swingline Loans exceeds the Swingline Commitment, or the total LC Exposure exceeds the Letter of Credit Commitment, then in each case the Borrower shall, upon request made by the Agent, prepay on such date the principal amount of Loans in an aggregate amount equal to such excess or, in the case where total LC Exposure exceeds the Letter of Credit Commitment, pay to the Agent an amount in cash equal to such excess to be held as security for the reimbursement obligations of the Borrower in respect of Letters of Credit pursuant to a cash collateral agreement to be entered into in form and substance reasonably satisfactory to the Agent, the Borrower and the Issuing Bank.

In the event of any repayment or prepayment of any Loan (other than a repayment or prepayment of an ABR Loan prior to the end of the Availability Period with no related Revolving Credit Commitment reduction), the Borrower shall pay all accrued interest on the principal amount repaid or prepaid on the date of such repayment or prepayment.

The proceeds of any mandatory prepayments paid to or for the account of the Lenders as provided herein shall be applied by the Lender entitled thereto on the applicable Indebtedness hereunder, without any premium or penalty (except for applicable Breakage Fees), first to accrued interest, fees and expenses payable on the Term Loans and the Revolving Loans, then to principal of the Term Loans in the inverse order of the scheduled maturities thereof, then to principal of the Revolving Loans.

**2.8 Use of Proceeds.** Borrower covenants to the Lenders that Borrower will use the proceeds borrowed under the Revolving Credit to refinance the indebtedness of Borrower under the Existing Facility; to partially refinance up to approximately \$1,450,000 of an existing loan facility of D M E with PNC Business Credit; and for Borrower's ongoing working capital and business requirements including Permitted Acquisitions other than the acquisition of the stock of D M E pursuant to the Stock Purchase Agreement. The proceeds of the Term Loan shall be used solely for the acquisition of all of the stock of D M E pursuant to the Stock Purchase Agreement.

**2.9 Special Provisions Governing Libor Loans — Increased Costs.** (a) In the event that on any Libor Interest Determination Date, any Lender shall have determined (which determination shall be final, conclusive and binding) that:

(1) by reason of conditions in the London Interbank Market or of conditions affecting the position of such Lender in such market occurring after the date hereof, adequate fair means do not exist for establishing the Libor Rate, or

(2) by reason of (i) changes in any applicable law or governmental rule, regulation, guideline or order (or any written interpretation thereof and including any new law or governmental rule, regulation, guideline or order but excluding any of the foregoing relating to Taxes referred to in Section 2.11 of this Agreement), or (ii) other circumstances affecting the Lenders or the London Interbank Market or the position of the Lenders in such market (such as, but not limited to, official reserve requirements), the Libor Rate does not represent the effective pricing to the Lenders for U.S. dollar deposits of comparable amounts for the relevant period due to such increased costs; then, and in either such event, the Lenders shall on such date (and in any event as soon as possible after being notified of a new Interest Period) give notice by telephone, confirmed in writing, to the Borrower or the Borrower and the Agent of such determination.

(b) Thereafter, the Borrower shall pay to the applicable Lender upon written request therefor, such additional amounts as such Lender shall reasonably determine to be required to compensate such Lender for such increased costs. A certificate as to such additional amounts submitted to the Borrower and the Agent by a Lender shall, absent manifest error, and if prepared on a good faith reasonable basis, be final, conclusive and binding upon the Borrower and such Lender.

(c) In lieu of paying to a Lender such additional amounts as required by this Section 2.9, the Borrower may exercise the following options:

(1) If such determination by a Lender relates only to a Libor Loan then being requested by the Borrower pursuant to the terms hereof, the Borrower may, on such Libor Interest Determination Date by giving notice by telephone to such Lender, withdraw such request, or

(2) The Borrower may, by giving notice by telephone to a Lender require such Lender to make the Libor Loan then being requested in the form of an ABR Loan or to convert its outstanding Libor Loan that is so affected into an ABR Loan at the end of the then current Interest Period.

**2.10 Required Termination and Repayment of Libor Loans.** (a) In the event a Lender shall have reasonably determined, at any time (which determination shall be final, conclusive and binding but shall be made only after consultation with the Borrower and the Agent), that the making or continuation of any or all of the Libor Loans hereunder:

(1) has become unlawful by compliance by Lender in good faith with any applicable law, governmental rule, regulation, guideline or order, or

(2) would cause Lender severe hardship as a result of a contingency occurring after the date hereof which materially and adversely affects the London Interbank Market (such as, but not limited to disruptions resulting from political or economic events); then, and in either such event, such Lender shall on such date (and in any event as soon as possible after making such determination) give telephonic notice to the Borrower and the Agent, confirmed in writing, of such determination, identifying which of the Libor Loans was so affected.

(b) The Borrower then shall, upon the termination of the then current Interest Period applicable to each Libor Loan so affected or, if earlier, when required by law, repay each such affected Libor Loan, together with all interest accrued thereon.

(c) In lieu of the repayment to the applicable Lender required by Section 2.10(b) of this Agreement, the Borrower may exercise the following options:

(1) If the determination by such Lender relates only to a Libor Loan then being requested by Borrower pursuant to the terms hereof, the Borrower may, on such date by giving notice by telephone to such Lender, withdraw such request, or

(2) The Borrower may, by Borrower giving notice by telephone to such Lender, require the Lender to make the Libor Loan then being requested in the form of an ABR Loan, or to convert its outstanding Libor Loan or Loans that are so affected into an ABR Loan at the end of the then current Interest Period applicable to each such Libor Loan (or at such earlier time as repayment is otherwise required to be made pursuant to the terms hereof). Such notice shall pertain only to the Libor Loan outstanding or to be outstanding during each such affected Interest Period.

**2.11 Taxes.** If any Taxes shall be payable, or ruled to be payable, by or to any Governmental Authority, by, or in respect of any amount owing to, any Lender which has complied with Section 9.18 of this Agreement, relating to any of the transactions contemplated by this Agreement (including, but not limited to, execution, delivery, performance, enforcement, or payment of principal or interest of or under the Notes or the making of any Libor Loan), by reason of any now existing or hereafter enacted statute, rule, regulation or other determination (excluding any Taxes imposed on or measured by the net income of any Lender), the Borrower will:

(a) pay on written request therefor all such Taxes, including interest and penalty, if any,

(b) promptly furnish the Agent and the Lenders with evidence of any such payment, and

(c) indemnify and hold the Agent and the Lenders and any holder or holders of the Notes harmless and indemnified against any liability or liabilities with respect to or in connection with any such Taxes or the payment thereof or resulting from any delay or omission to pay such Taxes.

Without prejudice to the survival of any other agreement of the Borrower under this Agreement, the agreement and obligations of the Borrower contained in this Section 2.11 shall survive the termination of this Agreement.

**2.12 Commitment Fee.** For each day during (i) the period beginning on the date of this Agreement and ending March 31, 2009, (ii) each full calendar quarter thereafter during the term of this Agreement and (iii) the period beginning on the first day of the calendar quarter containing the Revolving Credit Maturity Date and ending on the day before the Revolving Credit Maturity Date, the Borrower shall pay, on demand, following each such calendar quarter or other time period, to the Agent for the account of each Lender a fee equal to the sum of the Applicable Commitment Fee Rate times the actual average daily amount by which the Total Revolving Credit Commitment on each such day exceeds the sum of (x) the outstanding amount of Revolving Loans and (y) the outstanding amount of the total LC Exposure of the Lenders multiplied by 1/360.

**2.13 Revolving Credit Commitment Termination and Reduction.** (a) Unless previously terminated, the Revolving Credit Commitment shall terminate on the Revolving Credit Maturity Date.

(b) The Borrower may, at any time by three (3) Business Days prior written notice from the Borrower to the Agent, state the Borrower's desire to reduce the Maximum Limit to any amount which is not less than the aggregate of the then outstanding principal amount of Revolving Loans, Swingline Loans and the aggregate Available Amount of all Letters of Credit outstanding at such time, if any. Any reductions of the Maximum Limit shall not be reinstated at any future date and any partial reduction shall be in the amount of \$1,000,000 and in incremental multiples of \$1,000,000 thereafter. Two Business Days after receipt of such reduction notice, the obligation of the Lenders to make Revolving Loans hereunder or purchase participations in Swingline Loans or Letters of Credit hereunder shall be limited to the Maximum Limit as reduced pursuant to said notice. Any such reduction of the Revolving Credit Commitment shall be accompanied by payment of any applicable Breakage Fees.

**2.14 Payments.** All payments of interest, principal, fees and other expenses by the Borrower under this Agreement unless otherwise specified shall be made in lawful currency of the United States of America, and in immediately available funds without counterclaim or setoff and free and clear and without reduction for any present or future income, stamp or other Taxes, deductions or withholdings, all of which shall be paid by the Borrower for its own account except as otherwise provided in Section 9.18 of this Agreement. All payments shall be made not later than 12:00 Noon on the due date at the Agent's office. All payments (unless stated herein otherwise) shall be applied first to the payment of all fees, expenses and other amounts due to the Lenders (excluding principal and interest), then to accrued interest, and the balance on account of outstanding principal; provided, however, that after a Default or an Event of Default, payments will be applied to the obligations of Borrower to the Lenders as the applicable Lender determines in its sole discretion.

**2.15 Payments with Respect to Defaulting Lenders.** No payments of principal, interest or fees delivered to the Agent for the account of any Defaulting Lender shall be delivered by the Agent to such Defaulting Lender. Instead, such payments shall, for so long as such Defaulting Lender shall be a Defaulting Lender, be held by the Agent, and the Agent is hereby authorized and directed by all parties hereto to hold such funds in escrow and apply such funds as follows:

(a) First, if applicable, to any payments due to the Issuing Bank pursuant to Section 2.4(e) of this Agreement or the Agent under Section 2.1(b), Section 2.3 or Section 2.5 of this Agreement; and

(b) Second, to Loans required to be made by such Defaulting Lender on any borrowing date to the extent such Defaulting Lender fails to make such Loans; and

(c) Third, to the payment of any amount due to the Borrower under Section 2.5(b) of this Agreement.

Notwithstanding the foregoing, upon the termination of the Commitments and the payment and performance of all of the Indebtedness and other obligations of the Borrower under this Agreement (other than those owing to a Defaulting Lender), any funds then held in escrow by the Agent pursuant to the preceding sentence shall be distributed to each Defaulting Lender, pro rata in proportion to amounts that would be due to each Defaulting Lender but for the fact that it is a Defaulting Lender.

**2.16 Underwriting Fee.** Upon the execution of this Agreement by all of the parties hereto, the Lenders shall have earned, and the Borrower shall be obligated to pay on such date to the Agent for the account of the Lenders the Remaining Underwriting Fee as set forth in the Fee Letter dated as of January 20, 2009 among the Borrower, HSBC Bank, Bank of America, N.A. and KeyBank National Association (the "Fee Letter").

**2.17 Agent Fees.** The Borrower shall pay to the Agent for its own account the agency fees in the amounts and on the dates set forth in the Fee Letter.

**2.18 Charge to Account.** On the date that any principal or interest on the Notes or any fees or charges payable under this Agreement are due, the Borrower authorizes HSBC Bank to debit account number 770-804683 of the Borrower maintained with HSBC Bank on such date in an amount equal to such unpaid principal, interest, fees or charges, as applicable.

**2.19 Substitution of Lender.** If (a) the obligation of any Lender to make or maintain Libor Loans has been suspended pursuant to Section 2.10 of this Agreement when not all Lenders' obligations to do so have been suspended, (b) any Lender has demanded compensation under Sections 2.9 or 2.10 of this Agreement, or Yield Protection under Section 2.20 of this Agreement or a payment for a change in Capital Adequacy Regulations under Section 2.21 of this Agreement, in each case when all Lenders have not done so, (c) any Lender is a Defaulting Lender or (d) any payment of Taxes by the Borrower is required under Section 2.11 hereof, the Borrower shall have the right, if no Default then exists, to replace such Lender (a "Replaced Lender") with one or more other lenders (each, a "Replacement Lender") reasonably acceptable to the Agent, provided that (i) at the time of any replacement pursuant to this Section 2.19, each Replacement Lender shall enter into one or more Assignment and Assumptions pursuant to which the Replacement Lender shall acquire the Commitments and outstanding Loans and other obligations of the Replaced Lender and, in connection therewith, shall pay to the Replaced Lender in respect thereof an amount equal to the sum of (A) the amount of principal of, and all accrued interest on, all outstanding Loans of the Replaced Lender, (B) the amount of all accrued, but theretofore unpaid, fees and expenses, if applicable, owing to the Replaced Lender hereunder and (C) the amount which would be payable by the Borrower to the Replaced Lender pursuant to Section 2.7(a)(ii) of this Agreement, if any, if the Borrower prepaid at the time of such replacement all of the Loans of such Replaced Lender outstanding at such time and (ii) all obligations of the Borrower under this Agreement and the other Loan Documents then owing to the Replaced Lender (other than those specifically described in clause (i) above in respect of which the assignment purchase price has been, or is concurrently being, paid) shall be paid in full by the Borrower to such Replaced Lender concurrently with such replacement. Upon the execution of the respective Assignment and Assumption, the payment of amounts referred to in clauses (i) and (ii) above and, if so requested by the Replacement Lender, delivery to the Replacement Lender of the appropriate Note or Notes executed by the Borrower, the Replacement Lender shall become a Lender hereunder and the Replaced Lender shall cease to constitute a Lender hereunder. The provisions of this Agreement shall continue to govern the rights and obligations of a Replaced Lender with respect to any Loans made or any other actions taken by such Replaced Lender while it was a Lender. Nothing herein shall release any Defaulting Lender from any obligation it may have to the Borrower, the Agent, the Issuing Bank, Swingline Lender or any other Lender.

**2.20 Yield Protection.** If the introduction of any change in, or change in the interpretation of, after the date of this Agreement, any law or any governmental or quasi governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change or modification thereof,

(a) has the effect of changing the basis of taxation of payments to any Lender in respect of its Loans or other amounts due it hereunder (excluding income taxes and franchise taxes (imposed in lieu of income taxes) imposed on the Agent or any Lender as a result of a present or former connection between the Agent or such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein, other than any such connection arising solely from the Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), or

(b) has the effect of increasing or deeming applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender, or

(c) imposes any other condition the result of which is to increase the cost to any Lender of making, funding or maintaining loans or reduces any amount receivable by any Lender in connection with loans, or requires any Lender to make any payment calculated by reference to the amount of loans held or interest received by it (excluding for such purpose "Taxes" as to which Section 2.11 shall apply), by an amount reasonably deemed material by such Lender,

then, within fifteen (15) days of demand by such Lender, the Borrower shall pay such Lender that portion of such increased expense incurred or reduction in an amount received which such Lender reasonably determines is attributable to making, funding and maintaining its Loans or its Commitments.

**2.21 Changes in Capital Adequacy Regulations.** If a Lender reasonably determines the amount of capital required or expected to be maintained by such Lender or any corporation controlling such Lender is increased as a result of a Change (as defined below), then, within fifteen (15) days of demand by such Lender, the Borrower shall pay such Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which such Lender determines is attributable to this Agreement, its Loans or its obligation to make Loans hereunder (after taking into account such Lender's policies as to capital adequacy). As used herein, "Change" means (a) any change after the date of this Agreement in the Risk Based Capital Guidelines (as defined below) or (b) any adoption of or change in any other law, governmental or quasi governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the date of this Agreement which affects the amount of capital required or expected to be maintained by any Lender or any corporation controlling any Lender. "Risk Based Capital Guidelines" means (i) the risk based capital guidelines in effect in the United States of America on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States of America implementing the July 1988 report of the Basel Committee on Banking Regulation and Supervisory Practices Entitled "International Convergence of Capital Measurements and Capital Standards," including transition rules, and any amendments to such regulations adopted prior to the date of this Agreement.



**2.22 Lender Statements; Survival of Indemnity.** To the extent reasonably possible, each Lender shall designate an alternate office, branch or Affiliate with respect to its Libor Loans to reduce any liability of Borrower to such Lender under Sections 2.9, 2.11, 2.20 and 2.21 of this Agreement, so long as such designation is not disadvantageous to such Lender in any material respect. If any amount is due to a Lender under Section 2.9, 2.11, 2.20 or 2.21 of this Agreement, then such Lender shall deliver a written statement to the Borrower (with a copy to the Agent) as to the amount due. Such written statement shall set forth in reasonable detail the calculations upon which such Lender determined such amount and shall state that amounts determined in accordance with such procedures are being charged by such Lender to other Borrower with credit facilities similar to this Agreement and credit characteristics comparable to the Borrower as determined by such Lender and shall be final, conclusive and binding on the Borrower in the absence of manifest error. Determination of amounts payable under such sections in connection with a Libor Loans shall be calculated as though each Lender funded such Loans through the purchase of a deposit of the type and maturity corresponding to the deposit used as a reference in determining the interest rate applicable to such Loan, whether in fact that is the case or not. Unless otherwise provided herein, the amount specified in any written statement of any Lender shall be payable on demand after receipt by the Borrower of such written statement. The obligations of the Borrower under Sections 2.9, 2.20 and 2.21 of this Agreement shall survive payment of the Indebtedness under this Agreement and termination of this Agreement. The Borrower shall have no obligation to compensate any Lender with respect to amounts provided in Sections 2.20 and 2.21 of this Agreement with respect to any period prior to the date which is ninety (90) days prior to the date such Lender delivers its written statement hereunder requesting compensation.

**2.23 Expansion Option.**

**(a) Request for Increase.** Provided there exists no Event of Default, and no Event of Default would be caused thereby and the Total Revolving Credit Commitment has not been previously reduced in accordance with Section 2.13 hereof, upon notice to the Agent and the Lenders, the Borrower may on the Closing Date and from time to time thereafter prior to the Revolving Credit Maturity Date request an increase in the Revolving Credit Commitments so long as, after giving effect thereto, the Total Revolving Credit Commitment does not exceed \$65,000,000, and no such increase shall result in any increase in the Letter of Credit Sublimit or the Swingline Sublimit. The Agent may arrange for any such increase to be provided by one or more Lenders (each Lender so agreeing to an increase in its Revolving Credit Commitment, an "Increasing Lender") or by one or more new banks, financial institutions or other entities (each such new bank, financial institution or other entity, an "Augmenting Lender"), to increase their existing Revolving Credit Commitment or extend a Revolving Credit Commitment, as the case may be; provided that each Augmenting Lender shall be subject to the reasonable approval of the Agent and the Borrower, and each Increasing Lender and each Augmenting Lender executes documentation in form and content satisfactory to the Agent to either become a party to this Agreement or reflect the increase of such Lender's Revolving Credit Commitment under this Agreement. At the time of sending a notice requesting an increase in the Revolving Credit Commitments, the Agent shall specify the time period within which each Lender is requested to respond which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders ("Notice Period").

**(b) Lender Elections to Increase.** Each Lender shall notify the Agent within the Notice Period whether or not it agrees to increase its Revolving Credit Commitment and the amount thereof. Any Lender not responding within such time period shall be deemed to have declined to increase its Revolving Credit Commitment (any Lender declining to increase its Revolving Credit Commitment, a “Non-Increasing Lender”).

**(c) Notifications by Agent and Borrower.** The Agent shall notify the Borrower and each Lender of the Lenders’ responses to each request made hereunder. The Agent shall notify the Borrower and the Lenders of the name of each Augmenting Lender and the applicable Revolving Credit Commitment of such Lender.

**(d) Effective Date and Allocations.** If the Revolving Credit Commitments are increased as provided in this Section, the Agent and the Borrower shall determine the effective date (“Increase Effective Date”) and the final allocation of such increase. The Agent shall promptly notify the Lenders of the final allocation of such increase and the Increase Effective Date.

**(e) Conditions to Effectiveness of Increase.** As a condition precedent to such increase, the Borrower shall deliver to the Agent a certificate dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by an Authorized Officer of Borrower (i) certifying and attaching the resolutions adopted by Borrower approving or consenting to such increase, and (ii) certifying that, before and after giving effect to such increase, (A) the representations and warranties contained in Article IV and the other Loan Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 2.23, the representations and warranties contained in Section 4.7 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 5.2, and (B) no Event of Default or Default exists.

**(f) Revolving Credit Commitment Adjustments.** Each of the parties hereto agrees that the Agent may, in consultation with Borrower, take any and all actions as may be reasonably necessary to ensure that after giving effect to any increase in the Revolving Credit Commitments pursuant to this Section, the outstanding Loans (if any) are held by the Lenders with Revolving Credit Commitments in accordance with their new Applicable Percentages of the Revolving Credit as shown on an updated Schedule 2.1 which will be attached to this Agreement. This may be accomplished at the discretion of the Agent: (i) by requiring the outstanding Loans to be prepaid with the proceeds of new Loans; (ii) by causing the Non-Increasing Lenders to assign portions of their outstanding Loans to Increasing Lenders and Augmenting Lenders; (iii) by permitting the Loans outstanding at the time of any increase in the Revolving Credit Commitment pursuant to this Section 2.23 to remain outstanding until the last days of the respective Interest Periods, therefor, even though the Lenders would hold such Loans other than in accordance with their new Applicable Percentages of the Revolving Credit; or (iv) by any combination of the foregoing.

### **ARTICLE III. CONDITIONS TO THE CREDIT**

The Lenders' agreement to lend, contained in this Agreement, shall be effective only upon fulfillment of the following conditions at or prior to the Closing Date or such date or time as specifically provided herein.

**3.1 No Default.** (i) There not existing at the time a Loan is to be made any Event of Default or Default and (ii) such Lender not reasonably believing that any Event of Default or Default so exists or, if such Loan is made, will occur or exist.

**3.2 Representations and Warranties.** (i) Each representation and warranty made in this Agreement being true and correct as of the Closing Date and, except to the extent updated in a certificate executed by an Authorized Officer of Borrower and received by each Lender before the time a Loan is to be made, as of such time, (ii) each other representation and warranty made to any Lender by or on behalf of the Borrower pursuant to any Loan Document before the time such Loan is to be made being true and correct in all material respects as of the date thereof, (iii) each financial statement provided to any Lender by or on behalf of the Borrower pursuant to any Loan Document before the time such Loan is to be made having fairly presented the financial information it purports to reflect as of the date thereof and (iv) such Lender not reasonably believing that (A) any such representation or warranty, except to the extent so updated, was or is other than true and correct in all material respects as of any date or time of determination of the truth or correctness thereof, (B) any event or condition the occurrence, non-occurrence, existence or non-existence of which is a subject of any such representation or warranty would have any Material Adverse Effect or (C) any such financial statement did not so fairly present such information as of the date thereof.

**3.3 Proceedings.** Such Lender being satisfied as to each corporate or other proceeding of the Borrower or any Subsidiary in connection with any transaction contemplated by this Agreement.

**3.4 Closing Conditions.** The receipt by each Lender on the date of this Agreement, or the Swingline Lender or the Issuing Bank, as appropriate, unless otherwise indicated, of the following, in form and substance satisfactory to each Lender:

(a) A Revolving Note and Term Note payable to the order of such Lender, appropriately completed and duly executed by the Borrower;

(b) A request for the Revolving Loan determined by the Agent to meet the requirements for such a request set forth in Section 2.1 of this Agreement;

(c) A Swingline Note payable to the order of the Swingline Lender appropriately completed and duly executed by the Borrower;

(d) Each of the Guarantors shall have executed and delivered to the Agent a Guaranty;

(e) Borrower (i) shall have executed and delivered to Agent an amended and restated security agreement (“Borrower Security Agreement”) in form and content satisfactory to the Agent granting to the Agent for the benefit of the Lenders, the Agent and the Issuing Bank, security interests (“Borrower Security Interests”) in all of Borrower’s personal property and fixtures (other than the 14,535 shares of common stock of Tel-Instrument Electronics Corp. currently owned by Borrower), including 100% of the issued and outstanding Equity Interest in each Domestic Subsidiary other than Astronics Air LLC, whether now owned or hereafter acquired, wherever located, and any and all proceeds thereof (“Borrower Collateral”), as continuing collateral security for the payment of any and all Indebtedness and liabilities, whether now existing or hereafter incurred, of the Borrower to the Agent, the Lenders and the Issuing Bank arising under this Agreement and the Loan Documents, including the IRB Letters of Credit, the Existing Letter of Credit, and the documents executed and delivered in connection therewith; and (ii) hereby authorizes the Agent to file appropriate financing statements (“Borrower Financing Statements”) to perfect the Borrower Security Interests, which Borrower Security Interests shall, at the time of the execution of this Agreement, be superior to all other liens and security interests in such property except as to liens and security interests approved by the Agent;

(f) Each Guarantor (i) shall have executed and delivered to the Agent an amended and restated security agreement (together, the “Guarantor Security Agreement”) in form and content satisfactory to the Agent granting to the Agent for the benefit of the Lenders and the Issuing Bank, security interests (“Guarantor Security Interests”) in all of Guarantor’s respective personal property and fixtures, including 100% of the issued and outstanding Equity Interest in each Domestic Subsidiary, and 65% of the issued and outstanding Equity Interest in Luminescent Systems of Canada Inc., whether now owned or hereafter acquired, wherever located, and any and all proceeds thereof (collectively, the “Guarantor Collateral”), as continuing collateral security for the payment of any and all Indebtedness and liabilities, whether now existing or hereafter incurred, of the Guarantor to the Agent, the Lenders and the Issuing Bank arising under its Guaranty and the Loan Documents, including the IRB Letters of Credit, the Existing Letter of Credit, and the documents executed and delivered in connection therewith; and (ii) hereby authorizes the Agent to file appropriate financing statements (together, the “Guarantor Financing Statements”) to perfect the Guarantor Security Interests, which Guarantor Security Interests shall, at the time of the execution of this Agreement, be superior to all other liens and security interests in such property except as to liens and security interests approved by the Agent;

(g) An opinion of Hodgson Russ LLP, counsel to the Borrower, addressed to the Agent, each Lender and counsel to the Agent, and in form and content satisfactory to the Agent as to the matters referred to in Article IV of this Agreement;

(h) Evidence that each of the Borrower and the Guarantors are (i) in good standing under the Law of the jurisdiction in which it is organized and (ii) duly qualified and in good standing as a foreign Person of its type authorized to do business in each jurisdiction in which such qualification is necessary except where the failure to so qualify would not have any Material Adverse Effect;

(i) A copy of the certificate or articles of incorporation or organization, by-laws, operating or partnership agreement or other charter, organizational or governing document of each of the Borrower and the Guarantors, and certified by their respective Secretary, or a Person having functions with respect to it similar to those of the Secretary of a corporation, to be complete and accurate;

(j) Evidence of the taking and the continuation in full force and effect of each corporate or other action of the Borrower and each Guarantor, or any other Person necessary to authorize the obtaining of all Loans by the Borrower, the execution, delivery and performance of each Loan Document by each Person other than any Lender and the imposition or creation of each security interest, mortgage and other lien and encumbrance imposed or created pursuant to any Loan Document;

(k) Evidence (i) that no asset subject to any mortgage, security interest or other lien or encumbrance pursuant to any Collateral Document is subject to any other security interest, mortgage or other lien or encumbrance, except for Permitted Encumbrances, and (ii) of the making of each recording and filing, and of the taking of each other action, deemed necessary or desirable by the Agent at the sole option of the Agent to perfect or otherwise establish, preserve or protect the priority of any such security interest, mortgage or other lien or encumbrance;

(l) Evidence that each requirement contained in any Loan Document with respect to insurance is being met;

(m) Each additional agreement, instrument and other writing (including, but not limited to, each agreement, instrument and other writing intended to be filed or recorded with any Governmental Authority to perfect or otherwise establish, preserve or protect the priority of any security interest, mortgage or other lien or encumbrance created or imposed pursuant to any Loan Document;

(n) Evidence that the Borrower has satisfied each of the Initial Conditions set forth in the Commitment Letter dated as of January 20, 2009 among the Borrower, HSBC Bank, Bank of America, N.A. and KeyBank National Association including, without limitation, that the acquisition of all of the stock of D M E has been closed in accordance with the terms of the Stock Purchase Agreement;

(o) Payment of all costs and expenses incurred as of the Closing Date by the Agent and payable pursuant to this Agreement, or arrangements for payment satisfactory to the Agent for payment thereof having been made;

(p) The Seller Notes and Subordination Agreement shall be in form and substance satisfactory to the Agent and the Lenders; and

(q) The Borrower and the Guarantors shall have provided to the Agent and the Lenders such other items and shall have satisfied such other conditions as may be reasonably required by the Agent or the Lenders.

**3.5 Conditions to Subsequent Borrowing and Issuance.** The obligation of the appropriate Lender to make a Loan to Borrower or issue or renew a Letter of Credit (collectively, "Issuance") and the right of the Borrower to request a Loan or Issuance after the date of this Agreement shall each be subject to the further conditions that on the date of the making of such Loan or such Issuance:

(a) Each of the conditions listed in Section 3.4 shall have been satisfied or waived in accordance with this Agreement.

(b) The following statements shall be true and the Agent shall have received a Request Certificate signed by an Authorized Officer of Borrower dated the date of such Loan or Issuance stating that:

(i) there does not exist at the time such Loan or Issuance is to be made any Event of Default, Default or Material Adverse Effect; and

(ii) each representation and warranty made in this Agreement and any Loan Document to which the Borrower is a party and in any certificate, document or financial or other statement furnished at any time thereunder is true, correct and complete in all material respects (without duplication of materiality qualifiers) with the same effect as though such representations and warranties had been made as of the time such Loan or Issuance is to be made, except to the extent any such representation and warranty relates solely to an earlier date or to the extent any such representation and warranty has been updated in a certificate executed by an Authorized Officer and received by the Agent and the Lenders before the time such Loan or Issuance is to be made, and any such updated representation and warranty is acceptable to the Required Lenders.

(c) The Agent shall have received such other approvals, opinions or documents as the Agent may reasonably, in both time and scope, request, and all legal matters incident to such Loan or Issuance shall be satisfactory to counsel to the Agent.

**3.6 Subsequent Extensions of Credit.** Subsequent to the satisfaction of the conditions set forth herein, each request to the Agent for a Loan or Letter of Credit after the date hereof shall constitute confirmation by the Borrower of all the factual matters set forth in the form of Compliance Certificate as of the date of such request in the same manner as if a written Compliance Certificate had been delivered, and such factual matters shall be true in all material respects on the date such Loan or Letter of Credit is made or issued. No Loan or Letter of Credit shall be made if such certification is not made without qualification.

#### **ARTICLE IV. REPRESENTATIONS AND WARRANTIES**

The Borrower makes the following representations and warranties:

**4.1 Good Standing and Authority.** Borrower, each Guarantor and each other Subsidiary is a corporation, duly organized, validly existing, and in good standing under the laws of the state of its incorporation or other place of organization; has powers and authority to transact the business in which it is engaged; is duly licensed or qualified and in good standing in each jurisdiction in which the conduct of such business requires such licensing or such qualification except where failure to qualify would not reasonably be expected to have a Material Adverse Effect; and has all necessary power and authority to enter this Agreement and to execute, deliver and perform this Agreement, any Note and any other document executed in connection with this Agreement, all of which have been duly authorized by all proper and necessary corporate and shareholder action.

**4.2 Valid and Binding Obligation.** This Agreement, the Notes and any other document executed in connection herewith have been duly executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower and each Guarantor, as the case may be, enforceable against the Borrower or such Guarantor, as the case may be, in accordance with their respective terms.

**4.3 Good Title.** Each of the Borrower, each Guarantor and each other Subsidiary has good and marketable title to all of its assets, none of which is subject to any mortgage, indenture, pledge, lien, conditional sale contract, security interest, encumbrance, claim, trust or charge except Permitted Encumbrances.

**4.4 No Pending Litigation.** There are not any actions, suits, proceedings (whether or not purportedly on behalf of the Borrower or any Guarantor or any other Subsidiary) or investigations pending or, to the knowledge of the Borrower, threatened against the Borrower, any Guarantor or any other Subsidiary or any basis therefore which reasonably could be expected to have a Material Adverse Effect, or which question the validity of this Agreement, the Notes or other documents required by this Agreement, or any action taken or to be taken pursuant to any of the foregoing.

**4.5 No Consent or Filing.** No consent, license, approval or authorization of, or registration, declaration or filing with, any court, Governmental Authority or other Person is required on the part of the Borrower or any Subsidiary in connection with the valid execution, delivery or performance of this Agreement, the Notes or other documents required by this Agreement or in connection with any of the transactions contemplated thereby other than the filing of financing statements in connection with the Borrower Security Agreement and the Guarantor Security Agreement.

**4.6 No Violations.** Neither the Borrower nor any Guarantor or other Subsidiary is in violation of any term of its certificate of incorporation or by-laws or other organizational documents, or of any mortgage, borrowing agreement, the Subordination Agreement or the Seller Notes, or any other instrument or agreement pertaining to Indebtedness for borrowed money which might reasonably be expected to result in a Material Adverse Effect, and will not result in the creation of any Lien upon any properties or assets except in favor of the Agent and the Lenders. Neither the Borrower nor any Guarantors or other Subsidiary is in violation of any term of any other indenture, instrument, or agreement to which it is a party or by which it may be bound, resulting, or which might reasonably be expected to result, in a Material Adverse Effect. Neither the Borrower nor any Subsidiary is in violation of any order, writ, judgment, injunction or decree of any court of competent jurisdiction or of any statute, rule or regulation of any competent governmental authority which might reasonably be expected to result in a Material Adverse Effect. The execution and delivery of this Agreement, the Notes and other documents required by this Agreement and the performance of all of the same is and will be in compliance with the foregoing and will not result in any violation or result in the creation of any mortgage, lien, security interest, charge or encumbrance upon any properties or assets except in favor of the Agent and the Lenders. There exists no fact or circumstance not disclosed in this Agreement, in the documents furnished in connection herewith, the Borrower's filings under the Exchange Act, or in the financial projections furnished to the Lenders which has, or could reasonably be expected to have, a Material Adverse Effect, except those facts and circumstances which generally affect all Persons engaged in the Borrower's lines of business.

**4.7 Financial Statements.** The Borrower has furnished to the Lenders Consolidated financial statements showing the Borrower's and all Subsidiaries' financial condition as of December 31, 2007 and the results of operations and their cash flows for the fiscal year then ended audited by Ernst & Young LLP, which statements fairly present their Consolidated financial position and the results of their operations as of the date and for the period referred to and have been prepared in accordance with GAAP consistently applied throughout the interval involved. Since the date of such financial statements to the date of execution hereof, there have not been any materially adverse changes in the Consolidated financial condition of the Borrower and the Subsidiaries from that disclosed in such financial statements. None of the property or assets shown in the Consolidated financial statements delivered to the Lenders has been materially adversely affected as the result of any fire, explosion, accident, flood, drought, storm, earthquake, condemnation, requisition, statutory or regulatory change, act of God, or act of public enemy or other casualty, whether or not insured.

**4.8 Tax Returns.** The Borrower, the Guarantors and any other Domestic Subsidiaries have duly filed all federal and other tax returns required to be filed except where an extension has been obtained and has duly paid all taxes required by such returns through its fiscal year ending December 31, 2007. Federal income tax liability of the Borrower, the Guarantors and the other Domestic Subsidiaries has been reviewed by the United States Internal Revenue Service through its fiscal year ending December 31, 2004, and the Borrower has not received any assessments by the Internal Revenue Service or other taxing authority for additional unpaid taxes.

**4.9 Federal Regulations.** Neither the Borrower nor any Guarantor or any other Subsidiary is engaged principally, or as one of its important activities, in the business of extending or arranging for the extension of credit for the purpose of purchasing or carrying "margin stock" (as defined in Regulation U issued by the Board of Governors of the Federal Reserve System). Except for the stock owned by the Borrower and described on Schedule 6.3, neither the Borrower nor any Guarantor or other Subsidiary owns nor intends to carry or purchase any such "margin stock", and the Borrower will not use the proceeds of any Loan or Letters of Credit to purchase or carry (or refinance any borrowing the proceeds of which were used to purchase or carry) any such "margin stock". Neither the Borrower nor any Guarantor or other Subsidiary is subject to regulation with respect to the incurrence of Indebtedness under the Investment Company Act of 1940, as amended, the Interstate Commerce Act as amended, the Federal Power Act, as amended, the Energy Policy Act of 2005, as amended, or any applicable state public utility law.



**4.10 Compliance with ERISA.** Compliance by the Borrower with the provisions hereof and in the incurrence of the Indebtedness under this Agreement will not involve any prohibited transaction within the meaning of ERISA or Section 4975 of the Code. The Borrower and their Subsidiaries (i) have fulfilled all obligations under minimum funding standards of ERISA and the Code with respect to each Plan, (ii) have satisfied all respective contribution obligations in respect of each Multiemployer Plan and each Multiple Employer Plan, (iii) are in compliance with all other applicable provisions of ERISA and the Code with respect to each Plan, each Multiemployer Plan and each Multiple Employer Plan, except to the extent failure to comply has not had, and will not have, a Material Adverse Effect and (iv) have not incurred any liability under the Title IV of ERISA to the PBGC with respect to any Plan, any Multiemployer Plan, any Multiple Employer Plan, or any trust established thereunder. No Plan or trust created thereunder has been terminated. There has been no Reportable Event with respect to any Plan or trust created thereunder or with respect to any Multiemployer Plan or Multiple Employer Plan, which Reportable Event will or could result in the termination of such Plan, Multiemployer Plan or Multiple Employer Plan and give rise to a material liability of the Borrower or any ERISA Affiliate in respect thereof. Neither Borrower nor any ERISA Affiliate is at the date of this Agreement, or has been at any time within the two years preceding the date of this Agreement, an employer required to contribute to any Multiemployer Plan or Multiple Employer Plan, or a “contributing sponsor” (as such term is defined in Section 4001 of ERISA) in any Multiemployer Plan or Multiple Employer Plan. Neither the Borrower nor any ERISA Affiliate has any contingent liability with respect to any post-retirement “welfare benefit plan” (as such term is defined in ERISA) except as has been disclosed in accordance with GAAP in the financial statements delivered to the Lenders in accordance with this Agreement.

**4.11 Subsidiaries; Affiliates.** The Borrower has no (a) Subsidiaries except (i) as listed on Schedule 4.11 to this Agreement or (b) Affiliates, other than its Subsidiaries.

**4.12 Compliance.** The present and anticipated conduct of the business and operations of the Borrower and each Subsidiary and the present and anticipated ownership and use of each asset of the Borrower and each Subsidiary are in compliance in each material respect with each applicable statute, regulation and other law (including, but not limited to, the Environmental Protection Act, the Occupational Health and Safety Act, the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act), except where noncompliance would not result in a Material Adverse Effect. Each authorization, approval, permit, consent, franchise and license from, each registration and filing with, each declaration, report and notice to, and each other act by or relating to, any Person necessary for the present or anticipated conduct of the business or operations of the Borrower and each Subsidiary or for the present or anticipated ownership or use of any material asset of the Borrower and each Subsidiary has been duly obtained, made, given or done, and is in full force and effect, except where failure to so obtain, make, give or do would not have a Material Adverse Effect.

**4.13 Fiscal Year.** The fiscal year of the Borrower is the year ending December 31.

**4.14 Default.** There does not exist any Default or Event of Default as of the Closing Date nor will any Default or Event of Default begin to exist immediately after the execution and delivery hereof.

**4.15 Indebtedness for Borrowed Money.** As of the Closing Date, the Borrower and its Subsidiaries have no Indebtedness arising from the borrowing of any money, except for Indebtedness (a) to the Lenders under this Agreement, (b) the Seller Notes, (c) outstanding on the date of this Agreement pursuant to any lease, loan or credit facility fully and accurately described in Schedule 6.2 to this Agreement, (d) incurred with the prior written consent of the Agent, and (e) owing to the Borrower or a Subsidiary.

**4.16 Securities.** Each outstanding share of stock, debenture, bond, note and other security of the Borrower has been validly issued in full compliance with each statute, regulation and other law, and, if a share of stock, is fully paid and nonassessable.

**4.17 Environmental Matters.** (a) No above ground or underground storage tanks containing Hazardous Substances are or have been located on any property owned, leased or operated by the Borrower or any Subsidiary, except for storage tanks containing diesel fuel, gasoline or waste oil, which tanks are in material compliance with all applicable laws, rules and regulations.

(b) No property owned, leased or operated by the Borrower or any Subsidiary is or has been used for the storage or Disposal of any Hazardous Substance, except in the ordinary course of its business in material compliance with applicable Environmental Laws, or for the treatment of Hazardous Substances.

(c) No unpermitted Release of a Hazardous Substance has occurred or is threatened on, at, from or near any property owned, leased or operated by the Borrower or any Subsidiary, except where such unpermitted Release does not have, and could not reasonably be expected to have, a Material Adverse Effect.

(d) Neither the Borrower nor any Subsidiary is subject to any existing, pending or threatened suit or claim, notice of material violation or any investigation under any Environmental Law, that in any such case could reasonably be expected to result in a Material Adverse Effect.

(e) The Borrower and each Subsidiary are in compliance with all Environmental Laws, except where noncompliance does not have, and could not be reasonably expected to have, a Material Adverse Effect.

(f) All Environmental Permits have been obtained and are in full force and effect, except where the failure to obtain such Environmental Permit is not likely to have a Material Adverse Effect.

(g) There are no agreements, consent orders, decrees, judgment, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority relating to the past, present or future ownership, use, operation, sale, transfer or conveyance of any property owned, leased or operated by the Borrower or any Subsidiary which required any material change in condition or any work, repairs, construction, containment, clean up, investigation, study, removal or other remedial action or material capital expenditures with respect to such property.

**4.18 Burdensome Contracts; Labor Relations.** Neither the Borrower nor any Subsidiary (a) is subject to any burdensome contract, agreement, corporate restriction, judgment, decree or order, (b) is a party to any labor dispute affecting any bargaining unit or other group of employees generally, (c) is subject to any strike, slowdown, walk out or other concerted interruptions of operations by employees of the Borrower or any Subsidiary, whether or not relating to any labor contracts, (d) is subject to any pending or, to the knowledge of the Borrower, threatened, unfair labor practice complaint, before the National Labor Relations Board, (e) is subject to any pending or, to the knowledge of the Borrower, threatened grievance or arbitration proceeding arising out of or under any collective bargaining agreement, (f) is subject to any significant pending or, to the knowledge of the Borrower, threatened strike, labor dispute, slowdown or stoppage, or (g) is, to the knowledge of the Borrower, involved or subject to any union representation organizing or certification matter with respect to the employees of the Borrower or any Subsidiary, except (with respect to any matter specified in any of the above clauses) for such matters as, individually or in the aggregate, which have not had or will not have a Material Adverse Effect.

**4.19 Liens.** Once executed and delivered, each of the Collateral Documents creates, as security for the Indebtedness of the Borrower to the Lenders or the obligations for the Guarantors under their respective Guaranty, a valid and enforceable, and upon making the filings and recordings referenced in the next sentence, perfected Lien on all of the Collateral subject thereto from time to time, in favor of the Agent for the benefit of the Lenders, superior to and prior to the rights of all third persons and subject to no other Liens, except that the Collateral under the Collateral Documents may be subject to Permitted Encumbrances. No filings or recordings are required in order to perfect the Liens created under any Collateral Document except for filings or recordings required in connection with any such Collateral Document that shall have been made, or for which satisfactory arrangements have been made, upon or prior to the execution and delivery thereof. All recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable legal requirements or other laws applicable to the property encumbered by the Collateral Documents in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement thereof have been paid.

**4.20 Intellectual Property.** Each of the Borrower, the Guarantors and other Subsidiaries owns, or is licensed to use, all trademarks, tradenames, service marks, copyrights, technology, know-how and process necessary for the conduct of its business as currently conducted (collectively, the "Intellectual Property") except for those the failure to own or license which has not had or will not have a Material Adverse Effect. No claim has been asserted and is pending by any person challenging or questioning the use by the Borrower, any Guarantor or any other Subsidiaries of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor does Borrower, any Guarantor or any other Subsidiaries know of any valid basis for any such claim, to the knowledge of the Borrower the use of such Intellectual Property by the Borrower, any Guarantors and any other Subsidiaries does not infringe on the rights of any Person, and, to the knowledge of the Borrower, no such Intellectual Property of the Borrower, any Guarantor and any other Subsidiaries has been infringed, misappropriated or diluted by any other Person except for such claims, infringements, misappropriation and dissolution that, in the aggregate, has not had or will not have a Material Adverse Effect.

#### **4.21 Anti-Terrorism Laws.**

**(a) General.** Neither the Borrower, any Guarantor, nor any of their Subsidiaries or Affiliates, is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

**(b) Executive Order No. 13224.** Neither the Borrower, any Guarantor nor any of their Subsidiaries or Affiliates or their respective agents acting or benefiting in any capacity in connection with the Loans or other transactions hereunder, is any of the following (each a “Blocked Person”):

(1) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(2) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(3) a Person or entity with which any bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(4) a Person or entity that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order No. 13224;

(5) a Person or entity that is named as a “specially designated national” on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or

(6) a Person or entity who is affiliated or associated with a Person or entity listed above.

Neither the Borrower, any Guarantor nor any other Subsidiary or Affiliate of the Borrower or, to the knowledge of the Borrower, any of its agents acting in any capacity in connection with the Loans or other transactions hereunder (i) conducts any business or engages in making or receiving any contributions of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

**4.22 Accuracy of Information, etc.** No statement or information contained in this Agreement, any other Loan Document, the Confidential Information Materials or any other certificate furnished by or on behalf of Borrower or the Guarantors to the Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information or certificate was so furnished (or in the case of the Confidential Information Materials, as of the date of this Agreement), any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading in any material respect. The financial statements contained in the materials referenced above, in conformity with GAAP, require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. In addition, the projections and pro forma financial information contained in the materials referenced above are not guarantees of future performance and are subject to factors, risks and uncertainties, the impact or occurrence of which could cause actual results to differ materially from the expected results described in the projections and pro forma financial information.

**4.23 Solvency.** The Borrower has received consideration that is the reasonable equivalent value of the obligations and liabilities that the Borrower has incurred to the Agent, the Issuing Bank and the Lenders under the Loan Documents. The Borrower now has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage and is now solvent and able to pay its debts as they mature and the Borrower, as of the Closing Date and after the closing of the transactions contemplated by the Stock Purchase Agreement, owns property having a value, both at fair valuation and at present fair salable value, greater than the amount required to pay the Borrower's debts; and the Borrower is not entering into the Loan Documents with the intent to hinder, delay or defraud its creditors. For purposes of this Section, "debt" means any liability on a claim, and "claim" means (y) right to payment whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (z) right to an equitable remedy for breach of performance if such breach gives rise to a payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

#### **ARTICLE V. AFFIRMATIVE COVENANTS**

As long as this Agreement is in effect and until such time as the Commitments have been terminated, no Notes remain outstanding and the Loans, together with all interest, fees, charges and expenses under the Loan Documents have been paid in full, the Borrower will:

**5.1 Payments.** Duly and punctually pay the principal of and interest on all Indebtedness and all fees incurred by Borrower pursuant to this Agreement in the manner set forth in this Agreement.

**5.2 Financial Reporting Requirements.** Furnish to the Agent and each Lender (a) within forty-five (45) days after the end of each quarter of each of its fiscal years, unaudited financial statements of the Borrower and its Subsidiaries, which statements shall consist of Consolidated and summary consolidating balance sheets as of the end of such quarter, and related statements of income, covering the period from the end of the Borrower's immediately preceding fiscal year to the end of such quarter certified to be correct by the President or Vice-President-Finance and Treasurer of the Borrower, who shall also furnish to the Agent and each Lender a duly completed and executed Compliance Certificate; (b) within ninety (90) days after the end of each of its fiscal years, audited Consolidated financial statements of the Borrower and its Subsidiaries, which shall consist of a Consolidated and consolidating balance sheet as of the end of such year and the related statements of income, retained earnings and cash flows covering such fiscal year, audited by and together with an opinion of, in the case of such Consolidated financial statements, Ernst & Young LLP, or other independent certified public accountants satisfactory to the Agent, together with a Compliance Certificate from the President or Vice President-Finance and Treasurer of the Borrower; (c) promptly, after their preparations copies of all such proxy statements, financial statements and reports which the Borrower sends to its stockholders, and copies of all regular, periodic and special reports, as well as all registration statements, which the Borrower files with the Securities and Exchange Commission; (d) promptly after the filing thereof with the Pension Benefit Guaranty Corporation, a copy of each annual report filed with respect to each Plan; (e) by the end of each of its fiscal years, a forecast of the statements of income and cash flows as of and through the close of its following fiscal year of the Borrower and the Subsidiaries; and (f) such additional information, reports or statements (including, without limitation, a duly completed and executed Compliance Certificate) as the Agent may from time to time reasonably request regarding the financial and business affairs of the Borrower and the Subsidiaries.

**5.3 Notices.** Promptly notify the Agent in writing of (a) any pending or future audits of the Borrower's or any Guarantor's or other Subsidiary's federal income tax return by the Internal Revenue Service as soon as the Borrower has knowledge thereof, and the results of each such audit after its completion if such results could reasonably be expected to have a Material Adverse Effect; and (b) any default by the Borrower or any Guarantor or other Subsidiary in the performance of, or any modifications of, any of the terms or conditions contained in this Agreement, any other agreement, mortgage, indenture or instrument to which the Borrower or any Guarantor or other Subsidiary is a party or which is binding upon the Borrower or any Guarantor or other Subsidiary and of any default by the Borrower or any Guarantor or other Subsidiary in the payment of any of its Indebtedness. The Borrower shall not, however, be required to so notify the Agent of potential or actual defaults in payment of any such Indebtedness or the performance under, or of modifications of terms or provisions of, those documents or agreements pertaining to its transactions in the ordinary course of business which do not have a Material Adverse Effect or constitute a Default or an Event of Default.

**5.4 Taxes.** Promptly pay and discharge all of its taxes, assessments and other governmental charges (including any charged or assessed on the issuance of the Notes) prior to the date on which penalties are attached thereto, establish adequate reserves for the payment of such taxes, assessments and governmental charges and make all required withholding and other tax deposits; provided, however, that nothing herein contained shall be interpreted to require the payment of any tax, assessment or charge so long as its validity is being contested in good faith and by appropriate proceedings diligently conducted.

**5.5 Insurance.** (a) Keep, and cause each Subsidiary to keep, all its property so insurable insured at all times with responsible insurance carriers against fire, theft and other risks in coverage, form and amount consistent with industry standards and reasonably satisfactory to the Agent and the Lenders; (b) keep, and cause each Subsidiary to keep, adequately insured at all times in reasonable amounts with responsible insurance carriers against liability on account of damage to persons or property and under all applicable worker's compensation laws; (c) promptly deliver to the Agent certificates of insurance, with appropriate endorsements designating the Agent as a lender's loss payee and additional insured as requested by the Agent; and (d) cause each such insurance policy to contain a thirty (30) day notice of cancellation or material change in coverage provision satisfactory to the Agent.

**5.6 Litigation.** Promptly notify the Agent in writing as soon as the Borrower has knowledge thereof, of the institution or filing of any litigation, action, suit, claim, counterclaim, or administrative proceeding against, or investigation of, the Borrower or any Subsidiary to which the Borrower or any Subsidiary is a party by or before any regulatory body or governmental agency (a) the outcome of which could reasonably be expected to have a Material Adverse Effect or could reasonably be expected to materially and adversely affect the Borrower's ability to fulfill its obligations hereunder or which involves more than \$3,500,000 unless adequately covered by insurance, or (b) which questions the validity of this Agreement, the Notes or any action taken or to be taken pursuant to any of the foregoing; and furnish or cause to be furnished to the Agent such information regarding the same as the Agent may request.

**5.7 Judgments.** Promptly notify the Agent in writing as soon as the Borrower has knowledge thereof, of any judgment, order or award of any court, agency or other governmental agency or any arbitrator, (a) the outcome of which could reasonably be expected to have a Material Adverse Effect or could reasonably be expected to materially and adversely affect the Borrower's ability to fulfill its obligations hereunder or which involves more than \$3,500,000 unless adequately covered by insurance, or (b) renders invalid this Agreement, any Note or any action taken or to be taken pursuant to any of the foregoing, and furnish or cause to be furnished to the Agent such information regarding the same as the Agent may request.

**5.8 Corporate Standing.** Maintain, and cause each Subsidiary to maintain, its corporate, partnership or limited liability company existence in good standing and remain or become duly licensed or qualified and in good standing in each jurisdiction in which the conduct of its business requires such qualification or licensing, except where the failure to be so licensed or qualified and in good standing would not have a Material Adverse Effect; provided, however, nothing in this Section shall be deemed to prohibit any transaction permitted by Section 6.7 of this Agreement.

**5.9 Books and Records.** Keep proper books and records in accordance with generally accepted accounting principles consistently applied and notify the Agent promptly in writing of any proposed change in the location at which such books and records are maintained.

**5.10 Compliance with Law.** Comply, and cause each Subsidiary to comply, with all applicable laws and governmental rules and regulations, except where the failure to so comply does not have, and would not be reasonably expected to have, a Material Adverse Effect.

**5.11 Pension Reports.** With respect to each Plan, the Borrower will furnish the following to the Agent as soon as possible and in any event within thirty days after the Borrower knows or has reason to know of (a) the occurrence of any Reportable Event with respect to such Plan or (b) the institution of proceedings or the taking of any other action by the Pension Benefit Guaranty Corporation or the Borrower or any Subsidiary to terminate, withdraw or partially withdraw from any Plan and, with respect to a Multiemployer Plan, the reorganization (as defined in Section 4241 of ERISA) or insolvency (as defined in Section 4245 of ERISA) of such Plan, and in addition to such notice, deliver to the Agent whichever of the following may be applicable: (i) a certificate of the President or Vice President-Finance and Treasurer of the Borrower setting forth details known to the Borrower as to such Reportable Event, together with a copy of any notice thereof that is required to be filed with Pension Benefit Guaranty Corporation, or (ii) any notice delivered by the Pension Benefit Guaranty Corporation evidencing its intent to institute such proceedings or any notice to Pension Benefit Guaranty Corporation that such Plan is to be terminated, as the case may be.

**5.12 Inspections.** Upon request of the Agent, permit any officer, employee, accountant, attorney or other agent of the Agent upon reasonable notice and during regular business hours to (a) visit and inspect each of the premises of the Borrower and each Subsidiary, (b) examine, audit, copy and make extracts from each accounting record of the Borrower, and (c) discuss the business, operations, assets, affairs and condition (financial or other) of the Borrower and each Subsidiary with a responsible officer of the Borrower and with the independent accountants of the Borrower.

**5.13 Environmental Compliance.** (a) Comply with all Environmental Laws except where the failure to comply could not reasonably be expected to have a Material Adverse Effect.

(b) Promptly notify the Agent in the event of the Disposal of any Hazardous Substance at any property owned, leased or operated by the Borrower or any Subsidiary, or in the event of any Release, or threatened Release, of a Hazardous Substance, on, at or from any such Property, except when such Disposal or Release is in the ordinary course of the Borrower's or such Subsidiary's business and in compliance with all applicable Environmental Laws or could not reasonably be expected to have a Material Adverse Effect.

(c) Deliver promptly to the Agent (i) copies of any non-routine, material documents received from the United States Environmental Protection Agency or any state, county or municipal environmental or health agency concerning the Borrower's or any Guarantor's operations except documents of general applicability; and (ii) copies of any documents submitted by the Borrower or any Subsidiary to the United States Environmental Protection Agency or any state, county or municipal environmental or health agency concerning its operations, except submissions in the ordinary course of business.



**5.14 Certain Subsidiaries to Become Guarantors.** In the event that at any time after the Closing Date Borrower creates, holds, acquires or at any time has any Subsidiary (other than a Non-Material Subsidiary and a Foreign Subsidiary to which Section 5.15(b) applies) that is not a Guarantor, Borrower will immediately, but in any event within five (5) Business Days, notify the Agent in writing of such event, identifying the Subsidiary in question and referring specifically to the rights of the Agent and the Lenders under this Section. Borrower will, within fifteen (15) days following request therefor from the Agent (who may give such request on its own initiative or upon request by the Required Lenders), cause such Subsidiary to deliver to the Agent, in sufficient quantities for the Lenders, (i) a Guaranty duly executed by such Subsidiary, and (ii) if such Subsidiary is a corporation, resolutions of the Board of Directors of such Subsidiary, certified by the Secretary or an Assistant Secretary of such Subsidiary as duly adopted and in full force and effect, authorizing the execution and delivery of such Guaranty, or if such Subsidiary is not a corporation, such other evidence of the authority of such Subsidiary to execute such a Guaranty as the Agent may reasonably request. If any Subsidiary is required to provide a security agreement, whether pursuant to Section 5.15 or otherwise, such Subsidiary shall also be subject to the requirements of this Section 5.14.

**5.15 Additional Security; Further Assurances.**

**(a) Additional Security.** Subject to subpart (b) below, if Borrower or any Domestic Subsidiary (other than a Non-Material Subsidiary and other than Astronics Air LLC with respect to its existing ownership of a corporate aircraft) acquires, owns or holds any personal or real property (other than the vacant land currently owned by LSI and commonly known as 0 Commerce Way or VL Commerce Way, East Aurora, New York and consisting of SBL Numbers 175.10-1-3.111 and 175.11-1-9.1) that is not at the time included in the Collateral, the Borrower will promptly notify the Agent in writing of such event, identifying the property or interests in question and referring specifically to the rights of the Agent and the Lenders under this Section, and Borrower will, or will cause such Domestic Subsidiary to, within 30 days following a request by the Agent (or such longer period as the Agent shall deem reasonable under the circumstances), grant to the Agent for the benefit of the Lenders and grant to HSBC Bank as issuer of the IRB Letters of Credit and the Existing Letter of Credit, on a pari passu basis, a Lien on such personal or real property pursuant to the terms of such security agreements, mortgages, assignments or other documents as the Agent deems appropriate (collectively, the "Additional Security Document"). Furthermore, the Borrower shall cause to be delivered to the Agent and HSBC Bank such resolutions and other related documents as may be reasonably requested by the Agent and HSBC Bank in connection with the execution, delivery and recording of any such Additional Security Document, all of which documents shall be in form and substance reasonably satisfactory the Agent and HSBC Bank.

**(b) Foreign Subsidiaries.** In the event that Borrower or any existing Subsidiary acquires any other Foreign Subsidiary other than a Non-Material Subsidiary, or any Foreign Subsidiary which is a Non-Material Subsidiary ceases to be a Non-Material Subsidiary, the Borrower will, or will cause such existing Subsidiary to, if so requested by the Agent, pledge to the Agent for the benefit of the Lenders, the Agent and the Issuing Bank 65% of the Equity Interests in any such Foreign Subsidiary.

**(c) Further Assurances.** Borrower will, and will cause each Subsidiary, at the expense of Borrower, to make, execute, endorse, acknowledge, file and/or deliver to the Agent from time to time such conveyances, financing statements, transfer endorsements, powers of attorney, certificates, and other assurances or instruments and take such further steps relating to any Collateral covered by any of the Loan Documents as the Agent may reasonably require. If at any time the Agent determines, based on applicable law, that all applicable taxes (including, without limitation, mortgage recording taxes or similar charges) were not paid in connection with the recordation of any mortgage or deed of trust, the Borrower shall promptly pay the same upon demand.

**5.16 Accounting; Reserves; Tax Returns.** Cause each of the Borrower and any Subsidiary at all times to (i) maintain a system of accounting established and administered in material accordance with GAAP, and (ii) file each tax return it is required to file except where the failure to so file will not and has not had a Material Adverse Effect.

**5.17 Liens and Encumbrances.** Promptly upon acquiring knowledge or reason to know in the ordinary course of its business that any asset of Borrower or any Subsidiary has or may become subject to any Lien other than Permitted Encumbrances, provide to each Lender a certificate executed by an Authorized Officer of Borrower and specifying the nature of such Lien and what action Borrower has taken, is taking or proposes to take with respect thereto.

**5.18 Defaults and Material Adverse Effects.** Promptly upon acquiring knowledge or reason to know in the ordinary course of its business of the occurrence or existence of (i) any Event of Default or Default or (ii) any event or condition that has had or will have any Material Adverse Effect, provide to each Lender a certificate executed by an Authorized Officer and specifying the nature of such Event of Default, Default, event or condition, the date of occurrence or period of existence thereof and what action the Borrower has taken, is taking or proposes to take with respect thereto.

**5.19 Good Repair.** The Borrower will, and will cause each of its Subsidiaries to, ensure that its material properties and equipment used or useful in its business in whomsoever's possession they may be, are kept in good repair, working order and condition, normal wear and tear excepted, and that from time to time there are made in such properties and equipment all needful and proper repairs, renewals, replacements, extensions, additions, betterments and improvements thereto, to the extent and in the manner customary for companies in similar businesses.

**5.20 Hedge Agreements.** Within ninety (90) days of the Closing Date, Borrower will have entered into one or more Hedge Agreements with one or more of the Lenders to hedge not less than fifty percent (50%) of the aggregate principal amount of the Term Loans, and provided evidence thereof to the Agent.

**5.21 Existing and IRB Letters of Credit.** Within forty-five (45) days of the Closing Date, Borrower will have caused the (i) expiry dates of the IRB Letters of Credit and Existing Letter of Credit to have been amended to a date not later than the Business Day prior to the Revolving Credit Maturity Date; and (ii) fees payable under the reimbursement agreements for the IRB Letters of Credit and the Existing Letter of Credit to have been amended to conform to the provisions hereof applicable to other Letters of Credit and to provide that such fees shall be payable as provided in Section 2.4(l) and (m) of this Agreement, with the consent of all parties thereto, as applicable, and in compliance with all disclosure and other requirements in the bond documents applicable thereto.

**5.22 Mortgage Modifications.** Borrower will, and, if necessary, will have caused the Erie County Industrial Development Agency (“ECIDA”) to, execute and deliver to the Agent mortgage modification agreements in form and content satisfactory to the Borrower and the Agent, and the ECIDA for those mortgages to which the ECIDA is a party, for each of the existing mortgages which currently secure any of the IRB Letters of Credit whereby the liens of such mortgages are spread to cover the Term Loan Indebtedness under this Agreement.

**5.23 Landlord Waivers.** Within forty-five (45) days of the Closing Date, Borrower will obtain and deliver to the Agent executed landlord waivers, in form and substance satisfactory to the Agent, from all of the landlords with respect to any material inventory or equipment of D M E located at a location that is not owned by D M E, as deemed necessary or desirable by the Agent, to preserve and protect the rights of the Agent in Collateral.

**5.24 Further Actions.** Promptly upon the request of the Agent, execute and deliver or cause to be executed and delivered each writing, and take or cause to be taken each other action, that the Agent shall deem necessary or desirable at the sole option of the Agent to perfect or otherwise preserve or protect the priority of any security interest, mortgage or other lien or encumbrance imposed or created pursuant to any Loan Document or to correct any error in any Loan Document.

#### **ARTICLE VI. NEGATIVE COVENANTS**

As long as this Agreement is in effect and until such time as the Commitments have been terminated, no Notes remain outstanding and the Loans, together with all interest, fees, charges and expenses under the Loan Documents have been paid in full:

**6.1 Indebtedness.** Neither the Borrower nor any Subsidiary will create, incur, assume or suffer to exist any Indebtedness except (a) to the Agent and the Lenders, (b) the Seller Notes, (c) as set forth on Schedule 6.2 attached hereto, (d) Indebtedness owed by a Subsidiary to the Borrower or to another Subsidiary or by the Borrower to a Subsidiary, in each case made in the ordinary course of business including, without limitation, in connection with a Permitted Acquisition, (e) Indebtedness not in excess of \$3,000,000 outstanding at any one time incurred for Capital Leases of fixed assets or fixed asset purchases, (f) unsecured Indebtedness, exclusive of the Seller Notes, not exceeding \$3,500,000 outstanding at any one time that is subordinated to the Indebtedness of the Borrower to the Lenders under this Agreement in a manner reasonably satisfactory to the Agent and (g) any other Indebtedness not exceeding \$3,500,000 outstanding at any one time; provided that Borrower or any Subsidiary may exchange, refinance or refund any such Indebtedness described in clause (c) hereof if the aggregate principal amount thereof (or Capitalized Lease Obligation in the case of a Capital Lease or present value, based on the implicit rate, in the case of a Synthetic Lease) is not increased (other than in connection with the capitalization of interest).

**6.2 Encumbrances.** Neither the Borrower nor any Subsidiary will create, incur, assume or suffer to exist any mortgage, lien, security interest, pledge or other encumbrance on any of its property or assets, whether now owned or hereafter owned or acquired, except in favor of the Agent or a trustee for the benefit of the Agent and except for the following permitted encumbrances (collectively, the “Permitted Encumbrances”): (a) any lease of any asset as a lessor in the ordinary course of its business and without interference with the conduct of its business or operations, (b) any pledge or deposit made by the Borrower or any Subsidiary in the ordinary course of its business (i) in connection with any workers’ compensation, unemployment insurance, social security or similar statute, regulation or other law or (ii) to secure the payment of any indebtedness, liability or obligation in connection with any letter of credit, bid, tender, trade or government contract, lease, surety, appeal or performance bond or statute, regulation or other law, or of any similar indebtedness, liability or obligation, not incurred in connection with the borrowing of any money or in connection with the deferral of the payment of the purchase price of any asset, (c) any attachment, levy or similar lien with respect to the Borrower or any Subsidiary arising in connection with any action or other legal proceeding so long as (i) the validity of the claim or judgment secured thereby is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, (ii) adequate reserves have been appropriately established for such claim or judgment, (iii) the execution or other enforcement of such attachment, levy or similar lien is effectively stayed and (iv) neither such claim or judgment nor such attachment, levy or similar lien has a Material Adverse Effect, (d) any statutory lien in favor of the United States for any amount paid to the Borrower or any Subsidiary as a progress payment pursuant to any government contract, (e) any statutory lien securing the payment of any tax, assessment, fee, charge, fine or penalty imposed by any government or political subdivision upon the Borrower or any Subsidiary or upon any of its respective assets but not yet due to be paid (excluding any lien arising under ERISA), (f) any statutory lien securing the payment of any claim or demand of any materialman, mechanic, carrier, warehouseman, garageman or landlord against the Borrower or any Subsidiary, but not yet due to be paid, (g) any reservation, exception, encroachment, easement, right-of-way, covenant, condition, restriction, lease or similar title exception or encumbrance affecting title to any real property of the Borrower or any Subsidiary but not interfering with the conduct of its business or operations, (h) liens listed on Schedule 6.2 hereto and (i) liens on assets securing Indebtedness permitted by Section 6.1(a), (e), (f) or (g) hereof.

**6.3 Investments and Guaranty Obligations.** Neither the Borrower nor any Subsidiary will, directly or indirectly, (i) make or commit to make any Investment or (ii) be or become obligated under any guaranty other than a Guaranty, except for the following permitted investments (collectively, the “Permitted Investments”):

(a) Investments by Borrower or any Subsidiary in (i) Cash and Cash Equivalents (each as defined under GAAP) including any readily marketable direct obligation of the United States maturing within one year after the date of acquisition thereof, (ii) any time deposit maturing within one year after the date of acquisition thereof and issued by any banking institution that is authorized to conduct a banking business under any statute of the United States or any state thereof, or with respect to a Foreign Subsidiary authorized to conduct a banking business under any statute of the foreign country in which such Foreign Subsidiary is formed or organized or any political subdivision thereof, and has a combined capital and surplus of not less than \$100,000,000, (iii) any demand or savings deposit with any such institution, (iv) any Dollar deposits in the London Interbank Market with such banking institution or any subsidiary of any such banking institution, and (v) any commercial paper rated at least A-1 by Standard & Poor’s Ratings Group or P-1 by Moody’s Investor Services, Inc.;

(b) to the extent not permitted by the foregoing, Investments existing as of the Closing Date and described on Schedule 6.3 hereto; and

(c) intercompany advances or loans permitted by Section 6.1 or Contingent Obligations incurred by a Subsidiary or by the Borrower, with respect to the obligations of the Borrower or any Subsidiary, entered into in the ordinary course of business or in connection with a Permitted Acquisition and any other Investment (i) of Borrower or any Subsidiary in any Subsidiary existing as of the Closing Date, (ii) of Borrower in any Guarantor made after the Closing Date, (iii) of any Guarantor in any Guarantor made after the Closing Date, (iv) to fund the consideration directly relating to a Permitted Acquisition, including, without limitation, capital contributions made by the Borrower in a Subsidiary, or by any Subsidiary in another Subsidiary, or purchases made by the Borrower of the Equity Interests of a Subsidiary, or by any Subsidiary of the Equity Interests of another Subsidiary, in connection with a Permitted Acquisition subject, however, to any limits applicable to a Permitted Acquisition under Section 6.7(c) of this Agreement, or (v) not exceeding \$3,500,000 in the aggregate over the term of this Agreement.

**6.4 Equity Interest Repurchases.** Neither the Borrower nor any Subsidiary will, directly or indirectly make any repurchase or repurchases of Equity Interests in the Borrower or any Subsidiary except for (a) the repurchase by a Subsidiary of Equity Interests owned by the Borrower or another Subsidiary and (b) repurchases made in accordance with the following procedures that do not exceed \$6,000,000 in the aggregate over the term of this Agreement (“Aggregate Limit”). When Borrower intends to make any repurchase or repurchases, Borrower will execute and deliver to the Agent and the Lenders before consummating such repurchase or repurchases a Compliance Certificate certifying (i) the maximum dollar amount of the repurchases that the Borrower may make so that the statements hereafter set forth are true (“Maximum Repurchase Amount”) and the dollar amount that the Borrower intends in fact to repurchase, which must be an amount equal to or less than the Maximum Repurchase Amount, (ii) that, as of the date of execution and delivery of the Compliance Certificate, there does not exist, and there will not occur as a direct or indirect result of the consummation of repurchases in the Maximum Repurchase Amount, any Event of Default or Default, (iii) that Borrower is in compliance with the Financial Covenants as of the last fiscal quarter of Borrower most recently ended for which financial statements are then available or required to be delivered under Section 5.2 of this Agreement, (iv) that, based on pro-forma projections covering the four fiscal quarters of Borrower following the date of such Compliance Certificate, Borrower will be in compliance with the Financial Covenants upon and after consummation of repurchases in the Maximum Repurchase Amount, (v) that Available Cash Flow (as defined in the next paragraph) as then computed less the Maximum Repurchase Amount is equal to a number greater than 0; (vi) the amount of such repurchases which Borrower has made from the date of this Agreement through the date of the Compliance Certificate (“Past Repurchase Amount”), and (vii) that the sum of the Maximum Repurchase Amount and the Past Repurchase Amount does not exceed the Aggregate Limit. Provided Borrower complies with the foregoing and there is no Default or Event of Default then in existence, Borrower may make such repurchases up to the Maximum Repurchase Amount from the date of such Compliance Certificate until the later of the date which is (i) the last day of the fiscal quarter in which such Compliance Certificate is executed and delivered to the Agent and the Lenders or (ii) 60 days following such execution and delivery of the Compliance Certificate, and thereafter may only repurchase Equity Interests by delivering a new Compliance Certificate and repeating the foregoing procedures, which may be repeated throughout the term of this Agreement.

“Available Cash Flow” means the amount equal to Borrower’s Consolidated EBITDA less the sum of Borrower’s Consolidated Capital Expenditures, cash taxes, Consolidated Interest Expense, scheduled principal payments (excluding prepayments of principal) paid on long term Indebtedness and dividends, in each case for the twelve month period ending as of the last fiscal quarter period of the Borrower for which financial statements are then available or required to be delivered under Section 5.2 of this Agreement.

**6.5 Limitation on Certain Restrictive Agreements.** Neither the Borrower nor any Subsidiary will, directly or indirectly, enter into, incur or permit to exist or become effective, any “negative pledge” covenant or other agreement, restriction or arrangement that prohibits, restricts or imposes any condition upon (a) the ability of Borrower or any Subsidiary to create, incur or suffer to exist any Lien upon any of its property or assets as security for Indebtedness, or (b) the ability of any such Subsidiary to make dividends or distributions or any other interest or participation in its profits owned by the Borrower or any Subsidiary, or pay any Indebtedness owed to the Borrower or a Subsidiary, or to make loans or advances to the Borrower or any other Subsidiaries, or transfer any of its property or assets to the Borrower or any other Subsidiaries, except for such restrictions existing under or by reason of (i) applicable law, (ii) this Agreement and the other Loan Documents, (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest, (iv) customary provisions restricting assignment of any licensing agreement entered into in the ordinary course of business, (v) customary provisions restricting the transfer or further encumbering of assets subject to Liens permitted under Section 6.2, (vi) customary restrictions affecting only a Subsidiary under any agreement or instrument governing any of the Indebtedness of a Subsidiary permitted pursuant to Section 6.1, (vii) any document relating to Indebtedness secured by a Permitted Encumbrance, insofar as the provisions thereof limit grants of junior liens on the assets securing such Indebtedness, and (viii) any Operating Lease or Capital Lease, insofar as the provisions thereof limit grants of a security interest in, or other assignments of, the related leasehold interest to any other Person.

**6.6 Material Indebtedness Agreements.**

**(a) Amendments.** Neither the Borrower nor any Subsidiary will amend, restate, supplement or otherwise modify the Seller Notes (except in accordance with the provisions of the Subordination Agreement), or any Material Indebtedness without the prior written consent of the Agent if any such amendment, restatement, supplement or other modification would materially impact the rights or remedies of the Agent and the Lenders hereunder.

**(b) Prepayment and Refinance of Other Debt, etc.** After the Closing Date, the Borrower will not, and will not permit any Subsidiary to, make (or give any notice in respect thereof) any voluntary or optional payment or prepayment or redemption or acquisition for value of (including, without limitation, by way of depositing with the trustee with respect thereto money or securities before due for the purpose of paying when due) or exchange of, or refinance or refund, any Indebtedness of Borrower or its Subsidiaries that has an outstanding principal balance (or Capitalized Lease Obligation, in the case of a Capital Lease or present value, based on the implicit interest rate, in the case of a Synthetic Lease) greater than \$3,500,000 (other than the Indebtedness and intercompany loans and advances among Borrower and its Subsidiaries); provided that (a) Borrower or any Subsidiary may exchange refinance or refund any such Indebtedness if the aggregate principal amount thereof (or Capitalized Lease Obligation, in the case of a Capital Lease or present value, based on the implicit interest rate, in the case of a Synthetic Lease) is not increased (other than in connection with the capitalization of interest) and (b) the Borrower or any Subsidiary may make any such payment or prepayment or redemption or acquisition for value if any such payment or prepayment or redemption or acquisition for value is made with the proceeds of the sale of Equity Interests in Borrower remaining after Borrower has made any mandatory prepayment of the Indebtedness required pursuant to Section 2.7(b)(i)(2) of this Agreement. Notwithstanding the foregoing, Borrower will not, and will not permit any Subsidiary to make any payments or prepayments on the Seller Notes except in accordance with the provisions of the Subordination Agreement.

**6.7 Consolidation, Merger, Acquisitions, Asset Sales, etc.** Neither the Borrower nor any Subsidiary will (1) wind up, liquidate or dissolve its affairs, (2) enter into any transaction of merger or consolidation, (3) make or otherwise effect any acquisition of all or substantially all of the assets or Equity Interests of any other Person, or assets constituting all or substantially all of a division or product line of any other Person, other than Permitted Acquisitions set forth in Section 6.7(c), (4) sell or otherwise dispose of any of its property or assets outside the ordinary course of business, or otherwise make or otherwise effect any Asset Sale, or (5) agree to do any of the foregoing at any future time, except the following shall be permitted (collectively, 6.7(a) and 6.7(b) being "Permitted Dispositions"):

**(a) Certain Intercompany Mergers.** If no Default or Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger, consolidation or amalgamation of any Domestic Subsidiary with or into Borrower, provided Borrower is the surviving or continuing or resulting corporation; (ii) the merger, consolidation or amalgamation of any Domestic Subsidiary with or into any Guarantor, provided that the surviving or continuing or resulting corporation is a Guarantor, (iii) the merger, consolidation or amalgamation of any existing Foreign Subsidiary with or into any other existing Foreign Subsidiary; (iv) any Asset Sale by Borrower or any Guarantor to Borrower or any Guarantor, (v) any Asset Sale by any Foreign Subsidiary to Borrower or any Guarantor; or (vi) any Asset Sale by any existing Foreign Subsidiary to any other existing Foreign Subsidiary.

**(b) Other Dispositions.** If no Default or Event of Default shall have occurred and be continuing or would result therefrom, and no Material Adverse Effect has occurred or will result therefrom, the Borrower or any Subsidiary may consummate any Asset Sale, provided that: (i) the consideration for each such Asset Sale represents fair value and any non-cash consideration qualifies as a Permitted Investment hereunder and the aggregate of all such non-cash consideration does not exceed \$3,500,000 over the term of this Agreement; and (ii) the cumulative aggregate value of the assets subject to Asset Sales does not exceed \$1,000,000 in any one fiscal year (excluding for purposes of computing such maximum amount conveyances of mere record title to any asset to a Governmental Authority to save taxes where Borrower or any Subsidiary has an option to require reconveyance of such property for a nominal price) for all such transactions completed during any fiscal year.

**(c) Permitted Acquisitions.** Any acquisition by Borrower or any Subsidiary of all or substantially all of the assets or Equity Interests of any other Person (the “Target”) in a related line of business, or assets constituting all or substantially all of a division or product line of a Target in a related line of business, so long as Borrower delivers to the Agent and the Lenders a certificate in form and content satisfactory to the Agent (“Acquisition Certificate”) indicating that (i) immediately prior to contracting for or consummating such acquisition there does not exist, and there does not occur as a direct or indirect result of the consummation of such acquisition, any Event of Default or Default, (ii) Borrower is in compliance with the Financial Covenants on a pro-forma basis as of the last fiscal quarter of Borrower most recently ended for which financial statements are then available or required to be delivered under Section 5.2 of this Agreement assuming the acquisition had been consummated during such quarter, and Borrower demonstrates based on pro-forma projections covering the four fiscal quarters of the Borrower following the date of such Acquisition Certificate that Borrower will be in compliance with the Financial Covenants upon and after consummation of such acquisition, (iii) such acquisition is being completed on a non-hostile basis without opposition from the board of directors, managers or equity owners of the Target, (iv) with respect to any assets or Equity Interest of any Person acquired directly or indirectly pursuant to any such acquisition, there are no liens thereon other than Permitted Encumbrances, and (v) the aggregate Consideration paid by Borrower and all Subsidiaries in connection with any such acquisition does not exceed \$5,000,000 (including any investments made pursuant to Section 6.3(c)(iv), and the aggregate Consideration for all such acquisitions during the term of this Agreement does not exceed \$17,500,000 (including any investments made pursuant to Section 6.3(c)(iv), unless specifically consented to by the Required Lenders (each such acquisition, a “Permitted Acquisition” and all such acquisitions, the “Permitted Acquisitions”).

**6.8 Transactions with Affiliates.** Neither the Borrower nor any Subsidiary will enter into any transaction or series of transactions with any Affiliate (other than, in the case of the Borrower, any Subsidiary, and in the case of a Subsidiary, the Borrower or another Subsidiary) (each, an “Affiliate Transaction”), except for transactions in the ordinary course of business upon fair and reasonable terms no less favorable to the Borrower or any Subsidiary than would apply in a comparable arm’s length transaction with a Person who is not an Affiliate, and agreements and transactions with and payments to officers, directors and shareholders that are either (i) entered into in the ordinary course of business and not prohibited by any of the provisions of this Agreement or that are expressly permitted by the provisions of this Agreement, or (ii) entered into outside the ordinary course of business, approved by the directors or shareholders of the Borrower, and not prohibited by any of the provisions of this Agreement or in violation of any law, rule or regulation.

**6.9 Disposal of Hazardous Substances.** Neither the Borrower nor any Subsidiary will suffer, cause or permit the Disposal of Hazardous Substances at any property owned, leased or operated by the Borrower or any Subsidiary, except in the ordinary course of the Borrower’s business in material compliance with applicable Environmental Laws.



**6.10 Fiscal Year, Fiscal Quarters.** Neither the Borrower nor any Subsidiary will change its, or permit any Guarantor or other Subsidiary to change its, fiscal year or fiscal quarters (other than the fiscal year or fiscal quarters of a Person that becomes a Subsidiary, at the time such Person becomes a Subsidiary, to conform to Borrower's, any Subsidiary's fiscal year and fiscal quarters).

**6.11 Anti-Terrorism Laws.** Neither the Borrower nor any Subsidiary shall be subject to or in violation of any law, regulation, or list of any government agency (including without limitation, the U.S. Office of Foreign Asset Control list, Executive Order No. 13224 or the USA Patriot Act) that prohibits or limits the conduct of business with or the receiving of funds, goods or services to or for the benefit of certain Persons specified therein or that prohibits or limits any Lender or any Issuing Bank from making any advance or extension of credit to the Borrower or from otherwise conducting business with the Borrower.

**6.12 Changes in Business.** Neither the Borrower nor any Subsidiary will engage in any business if, as a result, the general nature of the business, taken on a Consolidated Basis, which would then be engaged in by the Borrower and any Subsidiary, would be substantially changed from the general nature of the business engaged in by the Borrower and any Subsidiary on the Closing Date.

**6.13 Minimum Fixed Charge Coverage Ratio.** The Borrower will not permit, as of the end of each fiscal quarter of Borrower ending on or after December 31, 2008, the Borrower's Fixed Charge Coverage Ratio to be less than 1.25 to 1.0.

**6.14 Maximum Fiscal Capital Expenditures.** The Borrower will not permit Consolidated Capital Expenditures to be made or incurred in excess of \$10,000,000 for Borrower's 2008 fiscal year or in any one fiscal year thereafter.

**6.15 Maximum Leverage Ratio.** The Borrower will not permit, as of the end of each fiscal quarter ending on or after December 31, 2008, the Leverage Ratio to exceed 2.75 to 1.0.

**6.16 Minimum Net Worth.** The Borrower will not permit the Consolidated Net Worth of the Borrower and its Subsidiaries to be less than the amount of \$57,300,000 ("Base Amount") as of September 30, 2008, or less than the then applicable Base Amount as of the end of each fiscal quarter thereafter. The initial Base Amount will remain in effect until December 31, 2009. The Base Amount will be increased annually, as of each December 31, commencing December 31, 2009, by adding to the Base Amount then in effect 50% of Borrower's Consolidated Net Income for the fiscal year of Borrower ending on such date. This covenant will be tested quarterly as of the end of each fiscal quarter of Borrower commencing December 31, 2008. No decrease in the Base Amount will be made for any Consolidated Net Loss incurred by Borrower and its Subsidiaries. For purposes of determining the Borrower's Consolidated Net Worth hereunder, the actual amount of the Borrower's write-off of Borrower's Eclipse inventory, tooling and related equipment up to \$6,000,000 in the aggregate during Borrower's 2008 or 2009 fiscal years will be added to Borrower's Consolidated Net Worth as otherwise determined in accordance with GAAP to the extent such write-off has negatively impacted such determination of Borrower's Consolidated Net Worth.

## **ARTICLE VII. DEFAULT**

**7.1 Events of Default.** The occurrence of any one or more of the following events shall constitute an event of default (individually, “Event of Default,” or, collectively, “Events of Default”):

**(a) Nonpayment.** Nonpayment within three (3) Business Days after the same becomes due whether by acceleration or otherwise of (i) principal of, or interest on, any of the Notes; (ii) any charge, fee or premium provided for hereunder; or (iii) any reimbursement obligation in connection with any Letter of Credit, the Existing Letter of Credit or the IRB Letters of Credit.

**(b) Negative Covenants.** Default in the observance of any of the covenants or agreements of the Borrower contained in Article VI.

**(c) Other Covenants.** Default in the observance of any of the covenants or agreements of the Borrower contained in this Agreement or any other Loan Document, other than those specified in Sections 5.1 and 7.1(b) hereof, which is not remedied within thirty (30) days after notice thereof by the Agent to the Borrower.

**(d) Voluntary Insolvency Proceedings.** If the Borrower or any Subsidiary (i) shall file a petition or request for liquidation, reorganization, arrangement, adjudication as a bankrupt, relief as a debtor or other relief under the bankruptcy, insolvency or similar laws of the United States of America or any state or territory thereof or any foreign jurisdiction, now or hereafter in effect; (ii) shall make a general assignment for the benefit of creditors; (iii) shall consent to the appointment of a receiver or trustee for the Borrower or any Subsidiary or any of the Borrower’s or any Subsidiary’s assets, including, without limitation, the appointment of or taking possession by a “custodian” as defined in the federal Bankruptcy Code; (iv) shall make any, or send notice of any intended, bulk sale; or (v) shall execute a consent to any other type of insolvency proceeding (under the federal Bankruptcy Code or otherwise) or any formal or informal proceeding for the dissolution or liquidation of, or settlement of claims against or winding up of affairs of, the Borrower or any Guarantor or other Subsidiary.

**(e) Involuntary Insolvency Proceedings.** The appointment of a receiver, trustee, custodian or officer performing similar functions for the Borrower or any Subsidiary or any of the Borrower’s or any Subsidiary’s assets, including, without limitation, the appointment of or taking possession by a “custodian” as defined in the federal Bankruptcy Code; or the filing against the Borrower or any Subsidiary of a request or petition for liquidation, reorganization, arrangement, adjudication as a bankrupt or other relief under the bankruptcy, insolvency or similar laws of the United States of America or any state or territory thereof or any foreign jurisdiction, now or hereafter in effect; or the institution against the Borrower or any Subsidiary of any other type of insolvency proceeding (under the federal Bankruptcy Code or otherwise) or of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of the Borrower or any Subsidiary, and the failure to have such appointment vacated or such filing, petition or proceeding dismissed within ninety (90) days after such appointment, filing or institution.

**(f) Representations.** If any certificate, statement, representation, warranty or financial statement furnished by or on behalf of the Borrower or any Subsidiary pursuant to or in connection with this Agreement or as an inducement to the Agent and the Lenders to enter into this Agreement or any other lending agreement with the Borrower shall prove to have been false in any material respect at the time as of which the facts therein set forth were represented, or to have omitted any substantial contingent or unliquidated liability or claim against the Borrower or any Subsidiary required to be stated therein, or if on the date of the execution of this Agreement there shall have been any materially adverse change in any of the facts disclosed by any such statement or certificate, which change shall not have been disclosed by the Borrower to Lenders at or prior to the time of such execution.

**(g) Cross Default Under Other Agreements.** If the Borrowers or any of their Subsidiaries shall (i) default in any payment with respect to any of the Existing Bonds, the IRB Letters of Credit, the Existing Letter of Credit (collectively, the "Existing Indebtedness") or any Material Indebtedness (other than this Agreement), and such default shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Existing Indebtedness or such Material Indebtedness; or (ii) default in the observance or performance of any agreement or condition relating to any such Existing Indebtedness or such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto (and all grace periods applicable to such observance, performance or condition shall have expired), or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Existing Indebtedness or such Material Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause any such Existing Indebtedness or such Material Indebtedness to become due prior to its stated maturity; or such Existing Indebtedness or such Material Indebtedness of the Borrowers or any of their Subsidiaries shall be due and payable, or shall be required to be prepaid (other than by a regularly scheduled required prepayment or redemption), prior to the stated maturity thereof; or (iii) without limitation of the foregoing clauses, default in any payment obligation under a Designated Hedge Agreement, and such default shall continue after the applicable grace period, if any, specified in such Designated Hedge Agreement or any other agreement or instrument relating thereto.

**(h) Judgments.** If any judgment or judgments (other than any judgment for which it is fully insured) against the Borrower or any Subsidiary in an aggregate amount in excess of \$3,500,000 remains unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of thirty (30) days after entry thereof.

**(i) Pension Default.**

(1) The Borrower or any of its Subsidiaries (or any officer or director thereof) shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan,

(2) any "accumulated funding deficiency" (as defined in Section 302 of ERISA), shall exist with respect to any Plan,

(3) with respect to any Multiemployer Plan, the Borrower or any Commonly Controlled Entity fails to make a contribution required to be made thereto, or withdraws therefrom, where in either event the liability of the Borrower or such Commonly Controlled Entity is in excess of \$100,000,

(4) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Plan which is not a Multiemployer Plan, which Reportable Event or institution of proceedings is, in the reasonable opinion of the Agent, likely to result in the termination of such Plan for purposes of Title IV of ERISA and, in the case of a Reportable Event, the continuance of such Reportable Event unremedied for ten (10) days after notice of such Reportable Event pursuant to Section 4043(a), (c) or (d) of ERISA is given or the continuance of such proceedings for ten (10) days after commencement thereof, as the case may be,

(5) any Plan shall terminate for purposes of Title IV of ERISA, or

(6) any other similar event or condition shall exist which, together with all other events or conditions in clauses (1) through (5) above, if any, would subject the Borrower or any of its Subsidiaries to any tax, penalty or other liabilities under ERISA in the aggregate material in relation to the business, operations, property or financial or other condition of the Borrower and its Subsidiaries taken as a whole.

**(j) Change in Control.** If there occurs a Change in Control.

**(k) Challenge to Loan Documents.** If Borrower or any Subsidiary shall challenge the validity and binding effect of any provision of any of the Loan Documents or shall state its intention to make such a challenge of any of the Loan Documents or any of the Collateral Documents shall for any reason (except to the extent permitted by its express terms) cease to be perfected or lose the priority of the Lien granted thereunder or cease to be effective.

**(l) Guarantor Default.** Any Guaranty shall cease, for any reason, to be in full force and effect or any Guarantor or the Borrower shall so assert in writing.

**(m) Senior Indebtedness.** If (1) the Indebtedness under this Agreement shall cease to be “Senior Indebtedness” under and as defined in the Subordination Agreement, (2) any Indebtedness other than the Indebtedness under this Agreement shall constitute “Senior Indebtedness” under and as defined in the Subordination Agreement, (3) any holder of the Seller Notes fails to comply with the provisions of the Subordination Agreement in a manner which could adversely effect the rights or remedies of the Agent or the Lenders under the Subordination Agreement, or (4) the Subordination Agreement shall, in whole or in part, cease to be effective or legal, valid and binding on the holders of the Seller Notes.

**7.2 Effects of an Event of Default.** (a) Upon the happening of one or more Events of Default (except a default with respect to the Borrower or any Subsidiary under either Section 7.1(d) or 7.1(e) hereof), the Agent may by notice to the Borrower require the principal of the Notes then outstanding to be immediately payable, together with all interest thereon and fees and expenses accruing under this Agreement. Upon such declaration, any obligations the Agent and the Lenders may have to the Borrower hereunder shall be immediately canceled and the Notes shall become immediately due and payable without presentation, demand or further notice of any kind to the Borrower.

(b) Upon the happening of one or more Events of Default under Section 7.1(d) or 7.1(e) hereof with respect to the Borrower or any Subsidiary, the Notes shall become immediately payable without presentation, demand or notice of any kind to the Borrower.

(c) No termination of this Agreement will relieve or discharge Borrower of its duties, obligations and covenants hereunder until all of the Indebtedness hereunder has been indefeasibly paid in full.

**7.3 Remedies.** Upon the occurrence and during the continuance of any Event of Default or upon any termination of this Agreement as a result of an Event of Default, then any of the Lenders and the Agent shall have all of their rights under this Agreement or otherwise under law. In addition to, and without limitation of, any rights of the Lenders under applicable law, if any Event of Default occurs, any and all deposits (including all account balances, whether provisional or final and whether or not collected or available) and any other Indebtedness at any time held or owing by any Lender to or for the credit or account of Borrower may be offset and applied toward the payment of the Indebtedness of the Borrower due under this Agreement or the Loan Documents.

**7.4 Application of Certain Payments and Proceeds.** All payments and other amounts received by the Agent or any Lender through the exercise of remedies hereunder or under the other Loan Documents shall, unless otherwise required by the terms of the other Loan Documents or by applicable law, be applied as follows:

(i) first, to the payment of all expenses (to the extent not otherwise paid by the Borrower or any of the Guarantors) incurred by the Agent and the Lenders in connection with the exercise of such remedies, including, without limitation, all reasonable costs and expenses of collection, reasonable attorneys' fee and expenses, court costs and any foreclosure expenses;

(ii) second, to the payment pro rata of interest then accrued on the outstanding Loans;

(iii) third, to the payment pro rata of any fees then accrued and payable to the Agent, any Issuing Bank or any Lender under this Agreement in respect of the Loans or the Letters of Credit;

(iv) fourth, to the payment pro rata of (A) the principal balance then owing on the outstanding Loans, (B) the amounts then due under Designated Hedge Agreements to creditors of the Borrower or any Subsidiary, subject to confirmation by the Agent of any calculations of termination or other payment amounts being made in accordance with normal industry practice, (C) the principal amount of the outstanding Letters of Credit (to be held and applied by the Agent as security for the reimbursement obligations in respect thereof) and (D) the unreimbursed amount of any LC Disbursements including drawings on the IRB Letters of Credit and the Existing Letter of Credit;

(v) fifth, to the payment to the Lenders of any amounts then accrued and unpaid under Sections 2.9, 2.10 and 2.11 of this Agreement, and if such proceeds are insufficient to pay such amounts in full, to the payment of such amounts pro rata;

(vi) sixth, to the payment pro rata of all other amounts owed by the Borrower to the Agent, to any Issuing Bank or any Lender under this Agreement or any other Loan Document, and to any counterparties under Designated Hedge Agreements of the Borrower and any Subsidiary, and if such proceeds are insufficient to pay such amounts in full, to the payment of such amounts pro rata; and

(viii) finally, any remaining surplus after all of the Indebtedness has been paid in full, to the Borrower or to whomsoever shall be lawfully entitled thereto.

#### **ARTICLE VIII. INDEMNIFICATION — COSTS AND EXPENSES**

**8.1 Indemnification.** The Borrower agrees to indemnify, defend, and hold harmless the Agent, the Lenders and their respective Related Parties from and against any and all liabilities, claims, damages, penalties, expenditures, losses, or charges incurred in connection with this Agreement, including, but not limited to, the use of, or proposed use of, the proceeds borrowed under this Agreement, and all costs of investigation, monitoring, legal representation, remedial response, removal, restoration or permit acquisition, which may now or in the future be undertaken, suffered, paid, awarded, assessed, or otherwise incurred by the Agent, any Lender or their respective Related Parties, or any other Person as a result of the presence of, Release of or threatened Release of Hazardous Substances on, in, under or near the property owned or operated by the Borrower or any Subsidiary except to the extent resulting from the gross negligence or willful misconduct of the indemnified party. The liability of the Borrower under the covenants of this Section is not limited by any exculpatory provisions in this Agreement and shall survive repayment of the Notes, or any transfer or termination of this Agreement regardless of the means of such transfer or termination, with respect to acts or omissions or a Release occurring before such repayment, transfer or termination.

**8.2 Expenses.** The Borrower shall reimburse the Agent promptly for all of its out-of-pocket expenses including, without limitation, reasonable counsel fees, filing fees, appraisal fees and recording fees incurred in connection with this Agreement and with any indebtedness subject hereto and for any taxes which the Agent may be required to pay in connection with the execution and delivery of this Agreement and the Notes. The Borrower shall further reimburse the Agent promptly for any reasonable expenses, including counsel fees and out-of-pocket expenses, incident to the enforcement of any provision of this Agreement, the Notes or any other document executed in connection with this Agreement or in connection with any Letter of Credit. Without limiting the Borrower's obligation to reimburse the Agent pursuant to this Section 8.2, the Borrower hereby irrevocably authorizes the Agent to make Revolving Loans to the Borrower and to use the proceeds thereof to pay any amount owed by the Borrower under this Section 8.2 upon the failure of the Borrower to make such payment, and the Agent agrees to notify the Borrower of the making of such Revolving Loans. Any such Revolving Loans shall be made (i) in the minimum amount necessary and (ii) without regard to the requirements of this Agreement with respect to notice or minimum amount.

## **ARTICLE IX. THE AGENT AND ISSUING BANK**

**9.1 Appointment and Authorization.** Each Lender hereby irrevocably appoints HSBC Bank as Agent, and HSBC Bank accepts such appointment. Each Lender hereby irrevocably authorizes the Agent to take such action as such agent on its behalf and to exercise such powers hereunder as are delegated to such agent by the terms hereof, together with such powers as are reasonably incidental thereto. Neither the Agent nor any of its Related Parties shall be liable for any action taken or omitted to be taken by such agent or them hereunder or in connection herewith, except for such agent's or their own gross negligence or willful misconduct as determined in a final judgment by a court of competent jurisdiction. The Agent (a) shall have no duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents, and shall not by reason of this Agreement or any other Loan Documents be a trustee or fiduciary for any Lender; (b) shall not be responsible to any Lender for any recitals, statements, representations or warranties contained in this Agreement or in any of the other Loan Documents, or in any certificate or other document referred to or provided for in, or received by any Lender under, this Agreement or any other Loan Documents, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Documents or any other document referred to or provided for herein or therein or for any failure by Borrower, or any other Person to perform any of its obligations hereunder or thereunder; and (c) shall not be responsible to any Lender for any action taken or omitted to be taken by it hereunder or under any other Loan Documents or under any other document or instrument referred to or provided for herein or therein or in connection herewith or therewith, except in the event of such agent's own gross negligence or willful misconduct, as determined by a final judgment of a court of competent jurisdiction. The Agent may employ agents and attorneys-in-fact and shall not be responsible for the negligence or misconduct of any such agent or attorneys-in-fact selected by it in good faith. In administering the Letters of Credit, the Issuing Bank shall not be under any liability to any Lender, except for such Issuing Bank's own gross negligence or willful misconduct, as determined in a final non-appealable decision of a court of competent jurisdiction or as set forth in Section 2.4 of this Agreement.

**9.2 Waiver of Liability of Agent.** The Agent shall not have any liability or, as the case may be, any duty or obligation:

(a) To Borrower on account of any failure of any Lender to perform, or the delay of any Lender in the performance of, any of its respective obligations under this Agreement or any of the Loan Documents or any of the other documents in connection herewith;

(b) To any Lender on account of any failure or delay in performance by Borrower or any other Lender of any of their respective obligations under this Agreement or any of the Loan Documents or any of the other documents in connection herewith;

(c) To any Lender to provide either initially or on a continuing basis any information with respect to Borrower or any of its Affiliates or Subsidiaries or its condition, or for analyzing or assessing or omitting to analyze or assess the status, creditworthiness or prospects of Borrower or any of the Affiliates of Borrower or any Subsidiaries, provided, however, the Agent shall promptly provide to each Lender a copy of the documents delivered by Borrower to the Agent pursuant to Section 5.2 of this Agreement;

(d) To any Lender to investigate whether or not any Default or Event of Default has occurred (and the Agent may assume that, until Agent shall have actual knowledge or shall have received notice from any Lender or Borrower, to the contrary, no such Default or Event of Default has occurred);

(e) To any Lender to account for any sum or profit or any property of any kind received by the Agent or any Issuing Bank arising out of any present or future banking or other relationship with Borrower or any of the Affiliates of Borrower or any Subsidiaries, or with any other Person except the relationship established pursuant to this Agreement or the Loan Documents;

(f) To any Lender to disclose to any Person any information relating to Borrower or any of the Affiliates of Borrower or any Subsidiaries received by the Agent or any Issuing Bank, if in any such party's reasonable determination (such determination to be conclusive), such disclosure would or might constitute a breach of any law or regulation or be otherwise actionable by suit against such agent or any Issuing Bank by Borrower or any other Person;

(g) To take any action or refrain from taking any action other than as expressly required by this Agreement and the Loan Documents; and

(h) To commence any legal action or proceeding arising out of or in connection with this Agreement or the Loan Documents until either of the Agent or the Issuing Bank, shall have been indemnified to the Agent's or the Issuing Bank's satisfaction against any and all costs, claims and expenses (including, but not limited to, attorneys' fees and expenses) in respect of such legal action or proceeding.

**9.3 Note Holders.** The Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with it, signed by such payee and in form satisfactory to the Agent.

**9.4 Consultation with Counsel.** The Agent may consult with legal counsel selected by the Agent and shall not be liable for any action taken or suffered in good faith by the Agent in accordance with the opinion of such counsel.

**9.5 Documents.** The Agent shall not be under any duty to examine into or pass upon the validity, effectiveness, genuineness or value of any Loan Documents or any other documents furnished pursuant hereto or in connection herewith or the value of any Collateral obtained hereunder, and the Agent shall be entitled to assume that the same are valid, effective and genuine and what they purport to be.



**9.6 Agent and Affiliates.** With respect to the Loans, the Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not the Agent, and the Agent and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with Borrower, any Guarantor or any other Subsidiary or any Affiliate thereof including, without limitation, entering into any kind of Hedge Agreement with respect to the Loans.

**9.7 Knowledge of Default.** It is expressly understood and agreed that the Agent and each Issuing Bank shall be entitled to assume that no Default or Event of Default has occurred and is continuing, unless the Agent or such Issuing Bank has been notified by a Lender in writing that such Lender believes that a Default or Event of Default has occurred and is continuing and specifying the nature thereof.

**9.8 Enforcement.** In the event any remedy may be exercised with respect to this Agreement or the Loan Documents, the Agent shall have the sole right of enforcement and each Lender agrees that no Lender shall have any right individually to enforce any provision of this Agreement or the Loan Documents, or make demand under this Agreement or the Loan Documents; provided, that any Issuing Bank or the Agent on behalf of such Issuing Bank may make demand upon Borrower as an Issuing Bank.

**9.9 Action by Agent.** So long as the Agent shall be entitled, pursuant to Section 9.7 of this Agreement, to assume that no Default or Event of Default shall have occurred and be continuing, the Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights which may be vested in it by, or with respect to taking or refraining from taking any action or actions which it may be able to take under or in respect of, this Agreement. The Agent shall incur no liability under or in respect of this Agreement by acting upon any notice, certificate, warranty or other paper or instrument believed by it to be genuine or authentic or to be signed by the proper party or parties, or with respect to anything which it may do or refrain from doing in the reasonable exercise of its judgment, or which may seem to it to be necessary or desirable in the premises.

**9.10 Notices, Defaults, etc.** In the event that the Agent shall have acquired actual knowledge of any Default or Event of Default, the Agent shall promptly notify the Lenders and shall take such action and assert such rights under this Agreement as the Required Lenders shall direct and the Agent shall inform the other Lenders in writing of the action taken. The Agent may take such action and assert such rights as it deems to be advisable, in its discretion, for the protection of the interests of the holders of the Notes.

**9.11 Indemnification of Agent.** The Lenders agree to indemnify the Agent (to the extent not reimbursed by the Borrower), ratably according to their respective Applicable Percentages from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent in its capacity as the Agent in any way relating to or arising out of this Agreement or any Loan Document or any action taken or omitted by the Agent with respect to this Agreement or any Loan Document, provided no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorney fees and expenses) or disbursements resulting from the Agent's gross negligence or willful misconduct as determined in a final judgment by a court of competent jurisdiction or from any action taken or omitted by the Agent in any capacity other than as the Agent under this Agreement.

**9.12 Successor Agent.** The Agent may resign as the Agent hereunder by giving not fewer than thirty (30) days prior written notice to the Borrower and the Lenders. If the Agent shall resign under this Agreement, then either (a) the Required Lenders shall appoint from among the Lenders a successor administrative agent for the Lenders (with the consent of the Borrower so long as an Event of Default has not occurred and which consent shall not be unreasonably withheld), or (b) if a successor administrative agent shall not be so appointed and approved within the thirty (30) day period following the Agent's notice to the Lenders of its resignation, then the Agent shall appoint a successor administrative agent who shall serve as the Agent until such time as the Required Lenders appoint a successor administrative agent. Upon its appointment, such successor administrative agent shall succeed to the rights, powers and duties as the Agent, and the term "Agent" shall mean such successor effective upon its appointment, and the former Agent's rights, powers and duties as the Agent shall be terminated without any other or further act or deed on the part of such former Agent or any of the parties to this Agreement.

**9.13 Lenders' Independent Investigation.** Each Lender, by its signature to this Agreement, acknowledges and agrees that the Agent has made no representation or warranty, express or implied, with respect to the creditworthiness, financial condition, or any other condition of Borrower or any Subsidiary, or with respect to the statements contained in the Confidential Information Materials or in any other oral or written communication between the Agent and such Lender. Each Lender represents that it has made and shall continue to make its own independent investigation of the creditworthiness, financial condition and affairs of the Borrower and any Subsidiary in connection with the extension of credit hereunder, and agrees that the Agent has no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto (other than such notices as may be expressly required to be given by the Agent to the Lenders hereunder), whether coming into its possession before the granting of the first Loans hereunder or at any time or times thereafter.

**9.14 Amendments, Consents.** No amendment, modification, termination or waiver of any provision of any Loan Document nor consent to any variance therefrom, shall be effective unless the same shall be in writing and signed by the Agent and the Lenders or Required Lenders, as appropriate, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Anything herein to the contrary notwithstanding, no amendment, modification, termination or waiver shall increase the amount of any Commitment of any Lender without the written consent of such Lender or increase the total Commitment without the consent of all of the Lenders, and the unanimous consent of the Lenders shall be required with respect to (a) the extension or postponement of the Revolving Credit Maturity Date or the Term Loan Maturity Date, the payment dates of interest thereunder, or the payment of facility or other fees or amounts payable hereunder, (b) any reduction in the rate of interest on the Notes, or in any amounts of principal or interest due on any Note or the payment of facility or other fees hereunder or any change in the manner of pro rata application of any payments made by the

Borrower to the Lenders hereunder, (c) any change in any percentage voting requirement, voting rights, or the Required Lenders definition in this Agreement, (d) the release of any material Collateral other than in connection with a Permitted Disposition which the Agent alone may release, or (e) any amendment to this Section 9.14; provided, however, only the consent of the Required Lenders shall be required for a waiver involving (i) the applicability of any post-Event of Default interest rate increase or the applicability of interest on Overdue Amounts as provided in Section 2.6(c) of this Agreement, (ii) any reduction in the amount of Net Proceeds required to be applied to prepay the Loans as provided in Section 2.7(b) of this Agreement or (iii) any other amendment hereunder or under the other Loan Documents which does not specifically require unanimous consent of the Lenders. Notice of amendments or consents ratified by the Required Lenders hereunder shall immediately be forwarded by the Agent to all Lenders. Each Lender or other holder of a Note shall be bound by any amendment, waiver or consent obtained as authorized by this Section, regardless of its failure to agree thereto. A Defaulting Lender shall not be entitled to give instructions to the Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the other Loan Documents. All amendments, waivers and other modifications of this Agreement and the other Loan Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of "Required Lenders", a Defaulting Lender shall be deemed not to be a Lender and not to have any Revolving Credit Exposures, Term Credit Commitment and Unused Revolving Credit Commitment. A Defaulting Lender shall be deemed to have satisfied in full a default when and if, as a result of application of payments as provided in Section 2.15 of this Agreement, the Lenders' respective pro rata shares of all outstanding Loans and unpaid reimbursement obligations have returned to those in effect immediately prior to such default and without giving effect to the nonpayment causing such default.

**9.15 Funding by Agent.** Unless the Agent shall have been notified in writing by any Lender not later than 4:00 p.m. on the day before the day on which Loans are requested by Borrower to be made that (or, if the request for a Loan is made by Borrower on the date such Loan is to be made, then not later than 2:00 p.m. on such day) such Lender will not make its ratable share of such Loans, the Agent may assume that such Lender will make its ratable share of the Loans, and in reliance upon such assumption the Agent may (but in no circumstances shall be required to) make available to the Borrower a corresponding amount. If and to the extent that any Lender fails to make such payment on such date, such Lender shall pay such amount to the Agent on demand, together with interest thereon, as set forth in Section 2.5(b) of this Agreement.

**9.16 Sharing of Payments.** If any Lender obtains any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) with respect to the Loans in excess of its pro rata share of such payments shared by all Lenders, such Lender shall forthwith purchase from the other Lenders participation in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, if all or any portion of such excess payment is hereafter recovered from such purchasing Lender, such purchase from the other Lenders shall be rescinded and each other Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's ratable share of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount recovered. Borrower agrees that any Lender purchasing a participation from another Lender pursuant to this Section 9.16 may, to the fullest extent permitted by law, exercise all of its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of Borrower in the amount of such participation.

**9.17 Payment to Lenders.** Except as otherwise set forth in Sections 2.3(c), 2.4(e), 2.15 and 9.16 of this Agreement, promptly after receipt from Borrower of any principal or interest payment on the Notes or any fees payable under, or in connection with, this Agreement (other than fees payable to the Agent for the account of the Agent), the Agent shall promptly distribute to each Lender that Lender's ratable share of the funds so received. If the Agent fails to distribute collected funds received by 2:00 p.m. on any Business Day prior to the end of the same Business Day, or to distribute collected funds received after 2:00 p.m. on any Business Day by the end of the next Business Day, the funds shall bear interest until distributed at the Federal Funds Effective Rate.

**9.18 Tax Withholding Clause.** Each Lender that is organized under the laws of a jurisdiction other than the United States of America, any State thereof or the District of Columbia (a "Foreign Lender") (including any replacement or successor Lender hereunder) shall:

(a) at least five (5) Business Days before the date of the initial payment to be made by Borrower under this Agreement to such Lender, deliver to the Borrower and the Agent (i) two duly completed copies of United States Internal Revenue Service Form W-8BEN or W-8ECI, or successor applicable form, as the case may be, certifying that it is entitled to receive under this Agreement without deduction or withholding of any United States federal income taxes and (ii) an Internal Revenue Service Form W-8BEN, or any successor applicable form, certifying that it is entitled to an exemption from United States backup withholding tax;

(b) deliver to the Borrower and the Agent two further copies of any such form or certification at least five (5) Business Days before the date that any such form or certification expires or becomes obsolete and after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Agent and the Borrower;

(c) obtain such extensions of time for filing and complete such forms certifications as may reasonably be requested by the Borrower or the Agent; and

(d) file amendments to such forms as and when required unless an event (including, without limitation, any change in treaty, law or regulation) has occurred after the date such Person becomes a Lender hereunder which renders all such forms inapplicable or which would prevent such Lender from duly completing and delivering any such form with respect to it and such Lender so advises the Borrower and the Agent; provided, however, that the Borrower may rely upon such forms provided to the Borrower for all periods prior to the occurrence of such event. Furthermore, the Borrower shall not be required to pay any additional amounts to a Foreign Lender pursuant to Section 2.11, and shall be permitted to reduce any payment required to be made to any Lender by any present or future income, stamp or other Taxes, deductions or withholdings (that otherwise would not be permitted to reduce such payment pursuant to the provisions of Section 2.14 of this Agreement), if such additional amounts or present or future income, stamp or other Taxes, deductions or withholdings would not have arisen or would not have been required to have been withheld, but for a failure by such Foreign Lender to comply with the provisions of this Section 9.18.

**9.19 USA Patriot Act.** Each Lender or assignee or participant of a Lender that is not organized under the laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA Patriot Act and the applicable regulations because it is both (a) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (b) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to the Agent the certification, or, if applicable, recertification, certifying that such Lender is not a “shell” and certifying to other matters as required by Section 313 of the USA Patriot Act and the applicable regulations: (i) within 10 days after the Closing Date, and (ii) at such other times as re required under the USA Patriot Act.

**9.20 Issuing Bank.** Each Lender acknowledges and agrees that the provisions of this Article IX shall apply to the Issuing Bank, in its capacity as issuer of any Letter of Credit, in the same manner as such provisions are expressly stated to apply to the Agent.

**9.21 Benefit of Article IX.** The provisions of this Article IX are intended solely for the benefit of the Agent, the Issuing Bank and the Lenders. The Borrower shall not be entitled to rely on any such provisions or assert any such provisions in a claim, or as a defense, against the Agent, the Issuing Bank or any Lender. The Borrower acknowledges and consents to the foregoing provisions of this Article IX.

## **ARTICLE X. MISCELLANEOUS**

**10.1 Amendment and Restatement; Future Amendments.** This Agreement amends and restates in its entirety that certain Credit Agreement dated as of May 13, 2008 among Borrower, the Lenders and HSBC Bank as Agent, Swingline Lender, Issuing Bank and Arranger and is intended by the parties as the final, complete and exclusive statement of the transactions evidenced by this Agreement. All prior or contemporaneous promises, agreements and understandings, whether oral or written, are deemed to be superseded by this Agreement, and no party is relying on any promise, agreement or understanding not set forth in this Agreement. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement or as otherwise provided in Section 9.14 of this Agreement, subscribed by an Authorized Officer of the Borrower and by authorized officers of the Required Lenders (or all the Lenders, if applicable), and the Agent.

**10.2 Delays and Omissions.** No course of dealing and no delay or omission by the Agent or the Lenders in exercising any right or remedy hereunder or with respect to any Indebtedness of the Borrower to shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. The Agent and the Lenders may remedy any Event of Default in any reasonable manner without waiving the Event of Default remedied and without waiving any other prior or subsequent Event of Default by Borrower and shall be reimbursed for their expenses in so remedying such Event of Default. All rights and remedies of the Lenders and the Agent hereunder are cumulative.

**10.3 Assignments/Participation.** (a) The Borrower shall not assign or otherwise transfer any of its rights pursuant to this Agreement without the prior written consent of the Agent, and any such assignment or other transfer without such prior written consent shall be void.

(b) Any Lender may, in accordance with applicable law, at any time sell to one or more Persons who would qualify as an Eligible Assignee (each, a "Participant") participating interests in any Revolving Loan or Term Loan owing to such Lender, any Revolving Note or Term Note held by such Lender, any Commitment of such Lender or any other interest of such Lender under the Loan Documents. In the event of any such sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, such Lender shall remain the holder of any such Revolving Loan or Revolving Note or Term Loan or Term Note for all purposes under the Loan Documents, all amounts payable by Borrower under this Agreement shall be determined as if such Lender had not sold such participating interests, and the Borrower and the Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under the Loan Documents. In no event shall any Participant have any right to approve any amendment or waiver of any provision of any Loan Document, or any consent to any departure by Borrower or any Guarantor therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, the Loans or any fees payable hereunder, or postpone the Revolving Credit Maturity Date or Term Loan Maturity Date, in each case to the extent subject to such participation.

(c) Any Lender may, in the ordinary course of its business and in accordance with applicable law, at any time assign to an Eligible Assignee all or any part of its rights and obligations under the Loan Documents. Such assignment shall be pursuant to an Assignment and Assumption. The consent of the Agent and the Borrower shall be required prior to an assignment becoming effective if so required for the assignee to be an "Eligible Assignee". Each such assignment shall be in an amount not less than the lesser of (i) \$5,000,000 for each portion of the Revolving Credit Commitment and Term Loan Commitment of such assigning Lender, or (ii) the remaining amount of the assigning Lender's Commitment (calculated as at the date of such assignment). Upon (i) delivery to the Agent of an Assignment and Assumption, together with any consents required above, and (ii) payment of a \$3,500 fee to the Agent for processing such assignment, such assignment shall become effective on the effective date specified in such Assignment and Assumption. On and after the effective date of such assignment, such Eligible Assignee shall for all purposes be a Lender to this Agreement and any other Loan Document executed by the Lenders and shall have all the rights and obligations of a Lender under the Loan Documents, to the same extent as if it were an original party hereto, and no further consent or action by the Borrower, the Lenders or the Agent shall be required to release the transferor Lender, and the transferor Lender shall be released without any further action, with respect to the Commitments and Revolving Loans assigned to such Eligible Assignee. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.3(c) 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 Section 10.3(b) of this Agreement. Upon the consummation of any assignment to an Eligible Assignee pursuant to this Section 10.3(c), the transferor Lender, the Agent and the Borrower shall make appropriate arrangements so that replacement Revolving Notes, or Term Notes if applicable, are issued to such transferor Lender and new Revolving Notes or Term Notes or, as appropriate, replacement Revolving Notes or replacement Term Notes, are issued to such Eligible Assignee, in each case in principal amounts reflecting their respective Commitments, as adjusted pursuant to such assignment.

(d) Any Lender may at any time pledge or assign all or any portion of its rights under the Loan Documents to any of the twelve (12) Federal Reserve Banks organized under Section 4 of the Federal Reserve Act, 12 U.S.C. Section 341. No such pledge or assignment or enforcement thereof shall release Lender from its obligations under any of the Loan Documents.

**10.4 Successors and Assigns.** Borrower, Guarantor, Subsidiary, Lenders and Agent as such terms are used herein shall include the legal representatives, successors and assigns of those parties.

**10.5 Notices.** Any notice, request or demand to or upon the respective parties hereto to be effective shall be in writing, unless otherwise expressly provided herein, and shall be deemed to have been given or made when delivered by hand or by facsimile (with a copy by regular mail), one (1) Business Day after being delivered to a courier for overnight delivery or three (3) Business Days after being deposited in the first class United States mail, addressed as follows, or to such other address as may be hereafter notified by the respective parties hereto:

To the Borrower:                   Astronics Corporation  
130 Commerce Way  
East Aurora, New York 14052  
Attn: David C. Burney, Vice President-Finance and Treasurer  
Facsimile No. 716-805-1286  
Telephone No. 716-805-1599 ext. 159

(With a copy  
which shall not  
itself constitute  
notice to):                         Hodgson Russ LLP  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202-4040  
Attention: Victoria J. Saxon, Esq.  
Facsimile No. 716-849-0349  
Telephone No. 716-848-1755

To HSBC Bank:                     HSBC Bank USA, National Association  
Commercial Banking Department  
One HSBC Center  
Buffalo, New York 14203  
Attn: Mark F. Zeis, Senior Vice President  
Facsimile No. 716-841-6782  
Telephone No. 716-841-2132

(With a copy  
which shall not  
itself constitute  
notice to):                         Phillips Lytle LLP  
3400 HSBC Center  
Buffalo, New York 14203  
Attention: Raymond H. Seitz, Esq.  
Facsimile No. 716-852-6100  
Telephone No. 716-847-7065

**10.6 Governing Law.** This Agreement, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the internal laws of the State of New York without regard to principles of conflicts of law.

**10.7 Counterparts.** This Agreement may be executed in any number of counterparts and by the Agent, the Lenders and the Borrower on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Agreement.

**10.8 Titles.** Titles to the sections of this Agreement are solely for the convenience of the parties, and are not an aid in the interpretation of this Agreement or any part thereof.

**10.9 Inconsistent Provisions.** The terms of this Agreement and any related agreements, instruments or other documents shall be cumulative except to the extent that they are specifically inconsistent with each other, in which case the terms of this Agreement shall prevail.

**10.10 Course of Dealing.** Without limitation of the foregoing, the Agent and the Lenders shall have the right, but not the obligation, at all times to enforce the provisions of this Agreement and all other documents executed in connection herewith in strict accordance with their terms, notwithstanding any course of dealing or performance by the Lenders or the Agent in refraining from so doing at any time and notwithstanding any custom in the banking trade. Any delay or failure by the Lenders or the Agent at any time or times in enforcing its rights under such provisions in strict accordance with their terms shall not be construed as having created a course of dealing or performance modifying or waiving the specific provisions of this Agreement.

**10.11 USA Patriot Act Notification.** Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56), such Lender is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow such Lender to identify Borrower in accordance with the USA Patriot Act (collectively, the "Customer Identification Materials"). Borrower has delivered to the Agent, and the Agent acknowledges receipt from the Borrower of, the Customer Identification Materials requested by the Agent to satisfy the Agent's regulatory requirements with respect thereto. Borrower consents to the dissemination of such Customer Identification Materials by the Agent to each Lender.



**10.12 JURY TRIAL WAIVER.** BORROWER, THE AGENT AND EACH LENDER, HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY THEY MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THIS AGREEMENT OR ANY LOAN DOCUMENT OR THE TRANSACTIONS RELATED HERETO. BORROWER REPRESENTS AND WARRANTS THAT NEITHER ANY REPRESENTATIVE OF THE AGENT OR ANY LENDER NOR THE AGENT NOR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE AGENT OR ANY LENDER WILL NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS JURY TRIAL WAIVER. BORROWER ACKNOWLEDGES THAT THE AGENT AND THE LENDERS HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE PROVISIONS OF THIS SECTION.

**10.13 CONSENT TO JURISDICTION.** BORROWER, THE AGENT AND EACH LENDER AGREE THAT ANY ACTION OR PROCEEDING TO ENFORCE OR ARISING OUT OF THIS AGREEMENT MAY BE COMMENCED IN THE SUPREME COURT OF NEW YORK IN ERIE COUNTY, OR IN THE DISTRICT COURT OF THE UNITED STATES IN THE WESTERN DISTRICT OF NEW YORK, AND THE BORROWER WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT A SUMMONS AND COMPLAINT COMMENCING AN ACTION OR PROCEEDING IN ANY SUCH COURT SHALL BE PROPERLY SERVED AND SHALL CONFER PERSONAL JURISDICTION IF SERVED BY REGISTERED OR CERTIFIED MAIL TO THE BORROWER, OR AS OTHERWISE PROVIDED BY THE LAWS OF THE STATE OF NEW YORK OR THE UNITED STATES.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers, all as of January 30, 2009.

**ASTRONICS CORPORATION**

By: /s/ David C. Burney  
**David C. Burney**  
**Vice President — Finance and Treasurer**

**HSBC BANK USA, NATIONAL ASSOCIATION,**  
**as Agent, Swingline Lender, Lender, Issuing Bank**  
**and a Lead Arranger**

By: /s/ Mark F. Zeis  
**Mark F. Zeis**  
**Senior Vice President**

**BANK OF AMERICA, N.A., as a Lender**  
**and a Lead Arranger**

By: /s/ Michael R. Nowicki  
**Michael R. Nowicki**  
**Senior Vice President**

**KEYBANK NATIONAL ASSOCIATION, as a Lender**  
**and Documentation Agent**

By: /s/ Mark F. Wachowiak  
**Mark F. Wachowiak**  
**Vice President**

[SIGNATURE PAGE TO ASTRONICS CREDIT AGREEMENT]

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**EXHIBIT A**

**REPLACEMENT REVOLVING NOTE**

**Buffalo, New York  
January 30, 2009**

\$ \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, **ASTRONICS CORPORATION** ("Borrower") hereby unconditionally promises to pay, on or before January 30, 2012, to the order of \_\_\_\_\_ ("Lender") at the Commercial Banking Department office of the Agent (as defined in the Credit Agreement as hereinafter defined) at One HSBC Center, Buffalo, New York 14203, or at the holder's option, at such other place as may be designated by the holder, in lawful money of the United States of America, a principal sum equal to the lesser of \_\_\_\_\_ (\$ \_\_\_\_\_) or the aggregate unpaid principal amount of all Revolving Loans made by Lender to the Borrower from time to time under an Amended and Restated Credit Agreement, dated of as of January 30, 2009, among the Borrower, HSBC Bank USA, National Association as agent, for itself, the Lender and other lending institutions and issuing banks now or hereafter parties thereto, as the same may hereafter be amended, supplemented, renewed, restated, replaced or otherwise modified from time to time ("Credit Agreement") as evidenced by the inscriptions made on the schedule attached hereto, or any continuation thereof ("Schedule"). The Borrower further promises to pay interest on the unpaid principal amount hereof from time to time at the rates and at such times as are specified in the Credit Agreement. All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Credit Agreement.

The Lender and each holder of this Note are authorized to inscribe on the Schedule, the date of the making of each Revolving Loan, the amount of each Revolving Loan, the applicable Rate Options and Interest Periods, all payments on account of principal and the aggregate outstanding principal balance of this Note from time to time unpaid. Each entry set forth on the Schedule shall be prima facie evidence of the facts so set forth. No failure by the Lender or any holder of this Note to make, and no error in making, any inscriptions on the Schedule shall affect Borrower's obligation to repay the full principal amount loaned to or for the account of Borrower, or the Borrower's obligation to pay interest thereon at the agreed upon rate.

If any payment on this Note becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day, and the Borrower will pay interest thereon at the then applicable rate until the date of actual receipt of such installment by the holder of this Note.

No failure by the holder to exercise, and no delay in exercising, any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the holder of any right or powers hereunder preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the holder as herein specified are cumulative and not exclusive of any other rights or remedies which the holder may otherwise have.

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No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement subscribed by a duly authorized officer of the Borrower and the holder hereof.

Borrower waives diligence, presentment, protest and demand, and also notice of protest, demand, dishonor and nonpayment of this Note.

This Note evidences a borrowing under the Credit Agreement to which reference is hereby made with respect to interest rate options and periods, prepayments of principal hereof prior to the maturity hereof upon the terms and conditions therein specified, and rights of acceleration of the principal hereof on the occurrence of certain events. The obligations of the Borrower under this Note, and the obligations of the Guarantors under the Loan Documents, are secured by the Collateral referred to in the Collateral Documents.

Borrower agrees to pay on demand all reasonable costs and expenses incurred by the holder in enforcing this Note or in collecting the indebtedness evidenced hereby, including, without limitation, if the holder retains counsel for any such purpose, reasonable attorneys' fees and expenses.

This Note is issued in replacement and substitution for, but not in payment of, a Revolving Note dated as of May 13, 2008 in the amount of \$\_\_\_\_\_ issued by the Borrower to Lender.

This Note shall be construed under, and governed by, the internal laws of the State of New York without regard to principles of conflicts of laws.

**ASTRONICS CORPORATION**

By: \_\_\_\_\_  
**David C. Burney**  
**Vice President — Finance and Treasurer**

**SCHEDULE**

**LOANS, RATE OPTIONS AND PAYMENTS OF PRINCIPAL**

<u>TYPE OF LOAN</u>	<u>DATE LOAN MADE, CONTINUED OR CONVERTED</u>	<u>AMOUNT OF LOAN MADE, CONTINUED OR CONVERTED</u>	<u>INTEREST PERIOD DATES</u>	<u>DUE DATE</u>	<u>AMOUNT OF PRINCIPAL PAID OR PREPAID</u>	<u>AGGREGATE UNPAID PRINCIPAL BALANCE</u>	<u>NOTATION MADE BY AND DATE</u>
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**EXHIBIT B**

**REPLACEMENT SWINGLINE NOTE**

**\$5,000,000.00**

**Buffalo, New York  
January 30, 2009**

FOR VALUE RECEIVED, the undersigned, **ASTRONICS CORPORATION**, a New York business corporation having its principal place of business at 130 Commerce Way, East Aurora, New York 14052 ("Borrower") promises to pay, **ON DEMAND**, to the order of **HSBC BANK USA, NATIONAL ASSOCIATION** ("Swingline Lender") at the Commercial Banking Department office of the Agent (as defined in the Credit Agreement, as hereinafter defined) at One HSBC Center, Buffalo, New York 14203, in lawful money of the United States and in immediately available funds, the lesser of (i) the principal amount of **Five Million Dollars (\$5,000,000)** or (ii) the aggregate amount of all unpaid Swingline Loans made by Swingline Lender to Borrower as shown on the schedule on the reverse side of this Note or any continuation schedule ("Schedule") together with interest as provided in the next paragraph. In this Note, any capitalized term not defined in this Note has the meaning defined in an Amended and Restated Credit Agreement, dated as of January 30, 2009, among the Borrower, HSBC Bank USA, National Association as agent, for itself, the Swingline Lender and other lending institutions and issuing banks now or hereafter parties thereto, as the same may hereafter be amended, supplemented, renewed, restated, replaced or otherwise modified from time to time ("Credit Agreement").

From and including the date of this Note to but not including the date the outstanding principal amount of this Note is paid in full, the Borrower shall pay to the Agent for the account of the holder of this Note ("Holder") interest on such outstanding principal amount at a rate per year that shall on each day prior to demand be equal to the ABR Option from time to time in effect pursuant to the Credit Agreement. After an unsatisfied demand for payment, this Note shall bear interest at a per annum rate of interest equal to 2% in excess of the Prime Rate from time to time in effect. In no event shall such interest be payable at a rate in excess of the maximum rate of interest permitted by applicable law. A payment of such interest shall become due on the first day of each calendar month, beginning on March 1, 2009 and on the date this Note is repaid in full. Interest shall be calculated on the basis of a 365-day year or 366-day year, as applicable, for the actual number of days elapsed.

The Holder is authorized to inscribe on the Schedule the date of each Swingline Loan made hereunder, each repayment of principal and the aggregate unpaid principal balance of this Note. Each entry set forth on the Schedule shall be prima facie evidence of the facts so set forth. No failure by the Holder to make, and no error by the Holder in making, any inscription on the Schedule shall affect the Borrower's obligation to repay the full amount advanced on this Note to or for the account of the Borrower, or Borrower's obligation to pay interest thereon at this agreed upon rate.

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If any payment on this Note becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day, and the Borrower will pay interest thereon at the then applicable rate until the date of actual receipt of such installment by the holder of this Note.

No failure by the holder to exercise, and no delay in exercising, any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the holder of any right or powers hereunder preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the holder as herein specified are cumulative and not exclusive of any other rights or remedies which the holder may otherwise have.

No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement subscribed by a duly authorized officer of the Borrower and the holder hereof.

Borrower waives diligence, presentment, protest and demand, and also notice of protest, demand, dishonor and nonpayment of this Note.

This Note is the Swingline Note referred to in the Credit Agreement and is otherwise entitled to the benefits of the Credit Agreement. The obligations of the Borrower under this Note, and the obligations of the Guarantors under the Loan Documents, are secured by the Collateral referred to in the Collateral Documents.

Borrower agrees to pay on demand all reasonable costs and expenses incurred by the holder in enforcing this Note or in collecting the indebtedness evidenced hereby, including, without limitation, if the holder retains counsel for any such purpose, reasonable attorneys' fees and expenses.

This Note is issued in replacement and substitution for, but not in payment of a Swingline Note dated as of May 13, 2008 in the amount of \$10,000,000 issued by the Borrower to Lender.

This Note shall be construed under, and governed by, the internal laws of the State of New York without regard to principles of conflicts of laws.

**ASTRONICS CORPORATION**

**By:** \_\_\_\_\_  
**David C. Burney**  
**Vice President — Finance and Treasurer**

**SCHEDULE**

**SWINGLINE LOANS AND PAYMENTS OF PRINCIPAL**

<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>	<u>AMOUNT OF PRINCIPAL PAID OR REPAID</u>	<u>AGGREGATE UNPAID PRINCIPAL BALANCE</u>	<u>INSCRIPTION MADE BY</u>
<hr/>				



**EXHIBIT C**

**TERM NOTE**

\$ \_\_\_\_\_

**Buffalo, New York  
January 30, 2009**

FOR VALUE RECEIVED, the undersigned, **ASTRONICS CORPORATION** ("Borrower") hereby unconditionally promises to pay to the order of \_\_\_\_\_ ("Lender"), at the Commercial Banking Department Office of the Agent (as defined in the Credit Agreement as hereinafter defined) at One HSBC Center, Buffalo, New York 14203, or at Lender's option, at such other place as may be designated from time to time by the Lender, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America, in twenty (20) quarterly installments of principal as follows: nineteen (19) equal consecutive quarterly principal installments of \$ \_\_\_\_\_ each commencing on April 1, 2009, and payable on the first day of each July, October, January and April thereafter, to and including October 1, 2013, and one (1) final installment on January 30, 2014 in an amount equal to the then unpaid principal balance hereof, together with interest as provided below.

The Borrower further promises to pay interest on the unpaid principal amount hereof from time to time at the rates and on the dates determined in accordance with the provisions of an Amended and Restated Credit Agreement dated as of January 30, 2009 among the Borrower, HSBC Bank USA, National Association, as agent, for itself, the Lender, and the other lending institutions and issuing banks now or hereafter parties thereto, as the same may hereafter be amended, supplemented, renewed, replaced or otherwise modified ("Credit Agreement"). All capitalized terms used herein and not otherwise defined herein shall have the meanings specified in the Credit Agreement.

After maturity, whether by acceleration or otherwise, this Note shall bear interest at a rate per annum equal to two percent (2%) plus the rate of interest otherwise applicable on this Note; provided, however, in no event shall the rate of interest on this Note exceed the maximum rate authorized by applicable law.

The holder hereof is authorized to inscribe on the schedule attached to this Note or any continuation thereof ("Schedule") the amount of each repayment of principal, the amount and, the date of the continuation or conversion of any Libor Loan or ABR Loan, and the dates on which each Interest Period shall begin and end. Each entry on the Schedule shall be prima facie evidence of the facts so set forth. No failure by the holder to make, and no error by the holder in making, any inscription on the Schedule shall affect the undersigned's obligation to repay the full principal amount advanced by the holder to or for the account of the undersigned or the undersigned's obligation to pay interest thereon at the agreed upon rate.

If any installment of this Note is not paid when due, whether because such installment becomes due on a Saturday, Sunday or bank holiday or for any other reason, the Borrowers will pay interest thereon at the aforesaid rate until the date of actual receipt of such installment by the holder of this Note.

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The Borrower may not prepay at any time any portion of the principal hereof which is a Libor Loan until the end of the applicable Interest Period except upon payment of the Breakage Fee as set forth in the Agreement and payment of all accrued interest on the principal so prepaid to the date of such prepayment. Any partial prepayment of principal shall be applied upon installments of this Note in inverse order of maturity.

No failure by the holder hereof to exercise, and no delay in exercising, any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the holder of any right or power hereunder preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the holder as herein specified are cumulative and not exclusive of any other rights or remedies which the holder may otherwise have.

No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement subscribed by duly authorized officers of the Borrowers and the holder hereof.

This Note is a Term Note as referred to in the Credit Agreement, to which reference is hereby made with respect to interest rate provisions, mandatory and voluntary prepayments, prepayment premiums, collateral and rights of acceleration of the principal hereof on the occurrence of certain events.

Borrower hereby waives diligence, presentment, protest and demand, and also notice of protest, demand, dishonor and nonpayment of this Note.

Borrower agrees to pay all costs and expenses incurred by the holder in enforcing this Note or in collecting the indebtedness evidenced hereby, including, without limitation, if the holder retains counsel for any such purpose, reasonable attorneys' fees and expenses.

This Note shall be construed under, and governed by, the internal laws of the State of New York without regard to principles of conflicts of laws.

**ASTRONICS CORPORATION**

**By:** \_\_\_\_\_  
**David C. Burney**  
**Vice President — Finance and Treasurer**

**SCHEDULE**

**LOANS, RATE OPTIONS AND PAYMENTS OF PRINCIPAL**

<u>TYPE OF LOAN</u>	<u>DATE LOAN MADE, CONTINUED OR CONVERTED</u>	<u>AMOUNT OF LOAN MADE, CONTINUED OR CONVERTED</u>	<u>INTEREST PERIOD DATES</u>	<u>DUE DATE</u>	<u>AMOUNT OF PRINCIPAL PAID OR PREPAID</u>	<u>AGGREGATE UNPAID PRINCIPAL BALANCE</u>	<u>NOTATION MADE BY AND DATE</u>
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## EXHIBIT D

### COMPLIANCE CERTIFICATE

**ASTRONICS CORPORATION** ("Borrower") hereby certifies to **HSBC BANK USA, NATIONAL ASSOCIATION** ("HSBC Bank") as Agent and the Lenders pursuant to an Amended and Restated Credit Agreement between the Borrower and the Agent and the Lenders dated as of January 30, 2009 ("Agreement"), that:

1. Capitalized terms not defined herein shall have the meanings set forth in the Agreement.
  2. The Borrower has complied with all the terms, covenants and conditions to be performed or observed by it contained in the Agreement and the Loan Documents.
  3. There exists no Default or Event of Default or Material Adverse Effect on the date hereof or, if applicable, after giving effect to the Loan made, continued or converted on the date hereof.
  4. The representations and warranties contained in the Agreement, in any Loan Document or in any certificate, document or financial or other statement furnished at any time thereunder are true, correct and complete in all material respects with the same effect as though such representations and warranties had been made on the date hereof, except to the extent that any such representation and warranty relates solely to an earlier date (in which case such representation and warranty shall be true, correct and complete on and as of such earlier date).
  5. There is no unsatisfied reimbursement obligation of the Borrower in connection with any Letter of Credit.
-

6. As of the date hereof and for the period ending date set forth below, the computations, ratios and calculations set forth in this Certificate are true and correct:

**Period Ending Date:** \_\_\_\_\_

**§6.13 Minimum Fixed Charge Coverage Ratio**

Consolidated Fixed Charge Coverage Ratio = \_\_\_\_\_:1.0

**Required: ~~≥~~ 1.25 to 1.0**

**§6.14 Maximum Capital Expenditures**

Consolidated Capital Expenditures \$ \_\_\_\_\_

**Required: ~~≥~~ \$10,000,000**

**§6.15 Maximum Leverage Ratio**

Consolidated Leverage Ratio = \_\_\_\_\_:1.0

**Required: ~~≥~~ 2.75 to 1.0**

**§6.16 Minimum Net Worth**

Consolidated Net Worth \$ \_\_\_\_\_

Eclipse Write-Offs \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

**Required: ~~≥~~ \$57,300,000 increased by 50% of Consolidated Net Income after 12/31/08 (Add to Consolidated Net Worth the actual Eclipse Write-Offs for 2008 and 2009 (but ~~≥~~ \$6,000,000 in the aggregate) for the purpose of determining compliance)**

**WITNESS** the signature of a duly authorized officer of the Borrower on \_\_\_\_\_, 20\_\_\_\_.

**ASTRONICS CORPORATION**

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

**EXHIBIT E**

**REQUEST CERTIFICATE**

**Revolving Loans and Term Loans**

The undersigned hereby certifies to HSBC Bank USA, National Association ("HSBC Bank") in accordance with the terms of an Amended and Restated Credit Agreement dated as of January 30, 2009 among Astronics Corporation ("Borrower"), HSBC Bank as Agent and the Lenders:

The undersigned requests or has requested by telephone or facsimile notice a:

Revolving Loan

(Check One)

- new loan
- conversion
- continuation

of a

(Check One)

- Libor Loan
- ABR Loan

to a or as a

(Check One)

- Libor Loan
- ABR Loan

Term Loan

(Check One)

- new loan
- conversion
- continuation

of a

(Check One)

- Libor Loan
- ABR Loan

to a or as a

(Check One)

- Libor Loan
- ABR Loan

in the amount of \$ \_\_\_\_\_ for an Interest Period, if applicable, of

(Check One)

- one month.
- two months.
- three months.
- six months.

The proposed loan/conversion/continuation is to be made on \_\_\_\_\_, 20\_\_ which is a Business Day.

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WITNESS the signature of the undersigned authorized signatory of the Borrower this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

**ASTRONICS CORPORATION**

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

## EXHIBIT F

### ASSIGNMENT AND ASSUMPTION

Reference is made to an Amended and Restated Credit Agreement, dated as of January 30, 2009, among Astronics Corporation, HSBC Bank USA, National Association as agent, for itself and the other lending institutions and issuing banks now or hereafter parties thereto, as the same may hereafter be amended, supplemented, renewed, restated, replaced or otherwise modified from time to time ("Credit Agreement"). Terms defined in the Credit Agreement are used herein as defined therein.

The Assignor identified on Schedule 1 hereto ("Assignor") and the Assignees identified on Schedule 1 hereto (each, an "Assignee", and collectively, the "Assignees") agree as follows:

1. Assignor hereby irrevocably sells and assigns to the Assignees, without recourse to Assignor, and each Assignee hereby irrevocably purchases and assumes from Assignor, without recourse to Assignor, as of the Effective Date (as defined below), the interest described on Schedule 1 hereto (each, an "Assigned Interest", and collectively, the "Assigned Interests") in and to Assignor's rights and obligations under the Credit Agreement with respect to those credit facilities contained in the Credit Agreement as are set forth on Schedule 1 hereto ("Assigned Facility") in a principal amount for each Assigned Facility as set forth on Schedule 1 hereto.

2. Assignor (i) represents and warrants that (A) it is legally authorized to enter into this Assignment and Assumption, (B) as of the date hereof, its Revolving Credit Commitment is \$\_\_\_\_\_, and its Applicable Percentage is \_\_\_\_\_%, the aggregate outstanding principal balance of its Revolving Loans is \$\_\_\_\_\_, and the aggregate outstanding balance of its Term Loan is \$\_\_\_\_\_, in each case after giving effect to the assignment contemplated hereby, (ii) makes no representation or warranty, express or implied and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto or the attachment, perfection or priority of any security interest or mortgage, other than that it has not created any adverse claim upon the interest being assigned by it hereunder and that such interest is free and clear of any such adverse claim; and (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or any of its Subsidiaries or any other obligation or the performance or observance by the Borrower, any of its Subsidiaries or any other Person primarily or secondarily liable in respect of the Obligations under the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto or thereto.

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3. Each of the Assignees (i) represents and warrants that (A) it is duly and legally authorized to enter into this Assignment and Assumption, (B) the execution, delivery and performance of this Assignment and Assumption do not conflict with any provision of law or of the charter or by-laws of such Assignee, or of any agreement binding on such Assignee, and (C) all acts, conditions and things required to be done and performed and to have occurred prior to the execution, delivery and performance of this Assignment and Assumption, and to render the same the legal, valid and binding obligation of such Assignee, enforceable against it in accordance with its terms, have been done and performed and have occurred in due and strict compliance with all applicable laws; (ii) confirms that it has received a copy of the Credit Agreement, together with copies of the financial statements delivered pursuant to Section 5.2 thereof, if any, the other Loan Documents, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption; (iii) agrees that it will, independently and without reliance upon the Assignor, the Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto or thereto; (iv) appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the Notes or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Agent by the terms thereof, together with such powers as are incidental thereto; (v) acknowledges that it has made arrangements with the Assignor satisfactory to such Assignee with respect to its pro rata share of letter of credit fees in respect of outstanding Letters of Credit; and (vi) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender including, if it is organized under the laws of a jurisdiction outside the United States of America, its obligation pursuant to Section 9.18 of the Credit Agreement to deliver the forms prescribed by the Internal Revenue Service of the United States certifying as to such Assignee's exemption from United States withholding taxes with respect to all payments to be made to such Assignee under the Credit Agreement, or such other documents as are necessary to indicate that all such payments are subject to such tax at a rate reduced by an applicable tax treaty.

4. On the Effective Date (as defined below), the Assignor shall return to the Borrower the Revolving Note or Term Note payable to Assignor which is being changed as the result of this Assignment and Assumption, stamped "Replaced".

5. The effective date for this Assignment and Assumption shall be the Effective Date of the Assignment described in Schedule 1 hereto (the "Effective Date"). Schedule 2.1 to the Credit Agreement shall thereupon be replaced by a new Schedule 2.1.

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6. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interests (including payments of principal, interest, fees and other amounts) to the Assignees that accrue subsequent to the Effective Date. The Assignor and the Assignees shall make directly between themselves any appropriate adjustments in payments for periods prior to the Effective Date by the Agent or with respect to the making of this assignment.

7. From and after the Effective Date, (i) each of the Assignees shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption, have the rights and obligations of a Lender thereunder and under the Notes and shall be bound by the provisions thereof, and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Credit Agreement. Notwithstanding anything to the contrary contained herein, the Assignor shall retain its right to be indemnified pursuant to Section 8.1 of the Credit Agreement with respect to any claims or actions arising prior to the Effective Date.

8. This Assignment and Assumption may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Assignment and Assumption by signing any such counterpart.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption to be executed as of \_\_\_\_\_, 20\_\_\_\_ by their respective duly authorized officers.

**ASSIGNOR:**

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**ASSIGNEE:**

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**SCHEDULE 1**  
to  
Assignment and Assumption

I. As to the Revolving Credit in respect of which an interest is being assigned:

Percentage interest assigned: \_\_\_\_\_%

Assignee's Revolving Credit Commitment: \$ \_\_\_\_\_

Aggregate outstanding principal amount of Revolving Loans assigned: \$ \_\_\_\_\_

Principal amount of Revolving Note payable to Assignee: \$ \_\_\_\_\_

Principal amount of Revolving Note payable to Assignor: \$ \_\_\_\_\_

II. As to the Term Loan in respect of which an interest is being assigned:

Percentage interest assigned: \_\_\_\_\_%

Assignee's Term Loan Commitment: \$ \_\_\_\_\_

Aggregate outstanding principal amount of Term Loan assigned: \$ \_\_\_\_\_

Principal amount of Term Note payable to Assignee: \$ \_\_\_\_\_

Principal amount of Term Note payable to Assignor: \$ \_\_\_\_\_

Effective Date of Assignment \_\_\_\_\_, 200\_

**[NAME OF ASSIGNOR], as Assignor**

**[NAME OF ASSIGNEE], as Assignee**

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

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

**Title:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Dated:** \_\_\_\_\_, 200\_

**Dated:** \_\_\_\_\_, 200\_

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**Domestic Lending Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Libor Lending Office:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Accepted this \_\_\_\_\_ day of  
\_\_\_\_\_, 200\_

**ASTRONICS CORPORATION, as Borrower**

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

**HSBC BANK USA, NATIONAL ASSOCIATION, as  
Agent**

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

**SCHEDULE 1**

**EMPLOYEE BENEFITS PLAN**

Atro Companies' Profit Sharing/401K Plan

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**SCHEDULE 2.1**

**LENDERS' COMMITMENTS**

<u>Lender</u>	<u>Revolving Credit Commitments</u>	<u>Term Credit Commitments</u>	<u>Total Commitments</u>	<u>Applicable Percentage</u>
HSBC Bank USA, N.A.	\$ 18,529,411.76	\$16,470,588.24	\$ 35,000,000	41.176470588%
Bank of America, N.A.	\$ 18,529,411.76	\$16,470,588.24	\$ 35,000,000	41.176470588%
KeyBank National Association	\$ 7,941,176.48	\$ 7,058,823.52	\$ 15,000,000	17.647058823%
Total	\$ 45,000,000.00	\$40,000,000.00	\$ 85,000,000	1.00000%

**Applicable Lending Offices:**

<u>Lender</u>	<u>Domestic Lending Office</u>	<u>Libor Lending Office</u>
HSBC Bank USA, National Association	One HSBC Center Buffalo, NY 14203	One HSBC Center Buffalo, NY 14203
Bank of America, N.A.	2001 Clayton Road Concord, CA 94520 Attn: Anna Maria Finn Credit Service Rep.	2001 Clayton Road Concord, CA 94520 Attn: Anna Maria Finn Credit Service Rep.
KeyBank National Association	50 Fountain Plaza, 17th Floor Buffalo, NY 14202	50 Fountain Plaza, 17th Floor Buffalo, NY 14202

**ISSUING BANK'S COMMITMENT**

<u>Issuing Bank</u>	<u>Letter of Credit Commitment</u>
HSBC Bank USA, National Association	\$ 20,000,000

**SCHEDULE 4.11**

**SUBSIDIARIES; AFFILIATES**

**A. Subsidiaries of Astronics Corporation:**

<u>Company</u>	<u>Incorporated</u>	<u>% Owned</u>
Luminescent Systems, Inc.	New York	100%
Luminescent Systems Europe B.V.B.A.	Belgium	50%
Astronics Advanced Electronic Systems Corp.	Washington	100%
Astronics Air LLC *	New York	100%
D M E Corporation	Florida	100%

**B. Subsidiaries of Luminescent Systems, Inc.:**

Luminescent Systems Europe B.V.B.A.	Belgium	50%
Luminescent Systems of Canada Inc.	Canada	100%

\* Sole asset is a single-engine aircraft

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**SCHEDULE 6.2**

**LIENS AND INDEBTEDNESS**

<u>Property/Equipment</u>	<u>Owner</u>	<u>Lien Held By</u>	<u>Type</u>	<u>Balance</u>	<u>Due Date</u>
Lot 27, Centerra Business Park 4 Lucent Drive Lebanon, New Hampshire	Luminescent Systems, Inc.	HSBC Bank	IRB *	\$ 4,109,918	06/18
130 Commerce Way East Aurora, New York	Luminescent Systems, Inc.	HSBC Bank	IRB *	\$ 2,985,624	12/19
	Luminescent Systems, Inc.	HSBC Bank	IRB *	\$ 6,084,000	4/27
Unsecured Loan	Astronics Corporation	Empire State Development Corporation	Loan	\$ 37,762.40	3/1/11
Unsecured Loan Backed by Existing Letter of Credit	Luminescent Systems Canada Inc.	HSBC Bank Canada	Loan	\$1,031,253.40	Demand, no later 8/31/15
Capitalized Lease/Secured Equipment Loan Covering Telephone System	D M E Corporation	US Bancorp	Lease	\$ 117,517.80	2012
D M E Dell Equipment	D M E Corporation	Dell Financial Service L.P.	Secured Revolver	\$ 100,000 Maximum	

\* Each of the IRB transactions are variable rate bond transactions backed by one of the IRB Letters of Credit.

### **SCHEDULE 6.3**

#### **INVESTMENTS AND GUARANTY OBLIGATIONS**

14,535 shares of common stock of Tel-Instrument Electronics Corp., which is traded on the American Stock Exchange, with an approximate value as of January 2, 2009 of \$3.090 per share.